9008A

UNITED NATIONS

E/NL. 1991/4-5
1 March 1991
ENGLISH ONLY*

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

BARBADOS

Communicated by the Government of Barbados

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...]

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*) Note by the Secretariat: The present document is a direct reproduction of the texts communicated to the Secretariat.

PROCEEDS OF CRIME ACT, 1990--13

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SCHEDULE

BARBADOS

I assent
D. A. WILLIAMS
Governor-General's Deputy
16th June, 1990

1990 – 13

An Act to provide for the forfeiture or confiscation of the proceeds of certain crimes and for connected or related matters.

(By Proclamation.) Commencement

ENACTED by the Parliament of Barbados as follows:

Part I

Preliminary

1. This Act may be cited as the *Proceeds of Crime Act, 1990*. Short title

Principal Objects

2. The principal objects of this Act are

(a) to deprive persons of the proceeds of, and the benefits derived from, the commission of scheduled offences;

(b) to provide for the forfeiture of property used in, or in connection with, or for the purpose of facilitating, the commission of scheduled offences;

(c) to provide for the forfeiture of property derived, obtained or realised directly or indirectly from the commission of scheduled offences;

(d) to provide for the making of confiscation orders in respect of property shown to have been derived, obtained or realised by a person directly or indirectly, from the commission of scheduled offences;

(e) to enable law enforcement authorities to trace such proceeds, benefits and property

Interpretation

3. In this Act

"benefit" falls to be construed in accordance with section 4(1);

"Commissioner" means the Commissioner of Police;

"confiscation order" means an order made by the Court pursuant to section 18(1);

"the Court" means the High Court;

"forfeiture order" means an order made by the Court pursuant to section 10(1);

"gift caught by this Act" falls to be construed in accordance with section 4(12), and (14);

"interest" in relation to property, means

(a) a legal or equitable interest in the property; or

(b) a right, power or privilege in connection with the property;

"police officer" means a member of the Police Force;

"proceeds" means any property that is derived, obtained or realised, directly or indirectly, by any person from the commission of a scheduled offence;

"proceeds of crime" means

(a) proceeds of a scheduled offence; or

(b) any property or benefits derived, obtained or realised, directly or indirectly, by any person from any act or omission that, occurred outside Barbados, and would, if it had occurred in Barbados, have constituted a scheduled offence;

"production order" means an order made by the Court pursuant to section 42;

"property" includes money and all other property, real or personal, including things in action and other intangible or incorporeal property;

"Public Trustee" means the Public Trustee appointed in accordance with the *Public Trustee Act;*

"realisable property" falls to be construed in accordance with section 4(3) and (4);

"relevant application period", in relation to a person's conviction of a scheduled offence, means the period of 12 months after

(a) where the person is to be taken to have been convicted of the offence by reason of section 4(2)(a), the day on which the person was convicted of the offence;

(b) where the person is to be taken to have been convicted of the offence by reason of section 4(2)(b), the day on which the person was discharged without conviction;

(c) where the person is to be taken to have been convicted of the offence by reason of section 4(2)(c), the day on which the court took the offence into account in passing sentence for the other offence referred to in that paragraph;

"restraining order" means an order made by the Court pursuant to section 32(1);

"scheduled offence" means an offence specified in the Schedule, and includes

Schedule

(a) an offence of conspiring to commit any of those offences;

(b) an offence of aiding, abetting, counselling or procuring, or being in any way knowingly concerned in, the commission of any of those offences;

(c) an offence of attempting to commit any of those offences;

(d) an offence of inciting another to commit any of those offences;

"tainted property", in relation to a scheduled offence, means

(a) property used in, or in connection with, the commission of the offence; or

(b) property derived, obtained or realised, directly or indirectly, from the commission of the offence;

"unlawful activity" means an act or omission that constitutes an offence against a law in force in Barbados or against a law of any other country.

Definition of certain terms etc.

4. (1) In this Act

(a) "a benefit" includes any property, service or advantage, whether direct or indirect;

(b) "to benefit" has a corresponding meaning;

(c) a reference to a benefit derived or obtained by, or otherwise accruing to, a person ("A") includes a reference to a benefit derived or obtained by, or otherwise accruing to, another person at A's request or direction.

(2) For the purposes of this Act, a person is to be taken to be convicted of a scheduled offence if

(a) he is convicted, whether summarily or on indictment, of the offence;

(b) he is charged with the offence and is found guilty but is discharged without conviction; or

(c) a court with his consent takes the scheduled offence, of which he has not been found guilty, into account in sentencing him for another offence.

(3) In this Act "realisable property" means, subject to subsection (4)

(a) any property held by a person who has been convicted of, or charged with, a scheduled offence; and

(b) any property held by a person to whom a person so convicted or charged has directly or indirectly made a gift caught by this Act.

(4) Property is not realisable property if

(a) there is in force in respect of that property, a forfeiture order under this Act or under any other enactment;

(b) a forfeiture order is proposed to be made against that property under this Act or any other enactment.

(5) For the purposes of sections 20 and 21 the amount that might be realised at the time a confiscation order is made against a person is the total of the values at that time of all the realisable property held by the person, less the total amounts payable in pursuance of an obligation, where there is an obligation having priority at that time, together with the total of the values at that time of all gifts caught by this Act.

(6) For the purposes of subsection (5), an obligation has priority at any time if it is an obligation of the person to

(a) pay an amount due in respect of a fine, or other order of a court, imposed or made on conviction of an offence where the fine was imposed or the order was made before the confiscation order; or

(b) pay an amount due in respect of any tax, rate, duty, cess or other impost payable under any enactment for the time being in force;

(c) pay any other civil obligation as may be determined by the Court;

(7) Subject to subsections (8) and (9), for the purposes of this Act, the value of property (other than cash) in relation to a person holding the property

(a) where any other person holds an interest in the property, is

(i) the market value of the first mentioned person's beneficial interest in the property; less

(ii) the amount required to discharge any encumbrance on that interest; and

(b) in any other case, its market value.

(8) References in this Act to the value at any time ("the material time") of the transfer of any property are references to

(a) the value of the property to the recipient when he receives it adjusted to take account of subsequent changes in the value of money; or

(b) where subsection (9) applies, the value there mentioned,

whichever is the greater.

(9) Where at the material time the recipient holds

(a) the property which he received (not being cash); or

(b) property which, in whole or in part, directly or indirectly represents in his hands the property which he received,

the value referred to in subsection (7)(b) is the value to him at the material time of the property mentioned in paragraph (a) of this subsection or, as the case may be, of the property mentioned in paragraph (b) of this subsection, so far as it represents the property which he received.

(10) Subject to subsection (14), a reference to the value at any time ("the material time") of a gift is a reference to

(a) the value of the gift to the recipient when he received it adjusted to take account of subsequent changes in the value of money; or

(b) the value there mentioned, where subsection (11) applies;

whichever is the greater.

(11) Subject to subsection (14), where at the material time a person holds

(a) property which he received, not being cash; or

(b) property which, in whole or in part, directly or indirectly represents in his hands the property which he received,

the value referred to in subsection (10) is the value to him at the material time of the property mentioned in paragraph (a) of this subsection or the value of the property mentioned in paragraph (b) so far as it so represents the property which he received.

(12) A gift, including a gift made before the commencement of this Act, is caught by this Act where

(a) it was made by the person convicted or charged at any time after the commission of the offence or, if more than one, the earliest of the offences to which the proceedings for the time being relate; and the Court considers it appropriate in all the circumstances to take the gift into account;

(b) it was made by the person convicted or charged at any time and was a gift of property

(i) received by the person in connection with the commission of a scheduled offence committed by him or another; or

(ii) which in whole or in part directly or indirectly represented in the person's hands property received by him in that connection.

(13) The reference in subsection (12) to "an offence to which the proceedings for the time being relate" includes where the proceedings have resulted in the conviction of the person, a reference to any offence which the Court takes into consideration when determining sentence.

(14) For the purposes of this Act

(a) the circumstances in which a person is to be treated as making a gift include those where the person transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the person; and

(b) in those circumstances, the preceding provisions of this section shall apply as if the person had made a gift of such share in the property as bears to the whole property the same proposition as the difference between the values referred to in paragraph (a) bears to the value of the consideration provided by the person.

Part II

FORFEITURE ORDERS, CONFISCATION ORDERS AND RELATED MATTERS

General

Application for forfeiture order or confiscation order on conviction

5. (1) Where a person is convicted of a scheduled offence committed after the coming into force of this Act, the Director of Public Prosecutions may apply to the Court for one or both of the following orders

(a) a forfeiture order against property that is tainted property in respect of the scheduled offence;

(b) a confiscation order against the person in respect of benefits derived by the person from the commission of the scheduled offence.

(2) The Director of Public Prosecutions may not make an application after the end of the relevant application period in relation to the conviction.

(3) An application under this section may be made in respect of one or more than one scheduled offence.

(4) Where an application under this section is finally determined, no further application for a forfeiture order or a confiscation order may be made in respect of the offence for which the person was convicted unless the Court gives leave for the making of a new application on being satisfied

(a) that the property, or benefit to which the new application relates was identified after the previous application was determined; or

(b) that necessary evidence became available after the previous application was determined; or

(c) that it is in the interests of justice that the new application be made.

Notice of application

6. (1) Where the Director of Public Prosecutions applies for a forfeiture order against property in respect of a person's conviction of a scheduled offence

(a) the Director of Public Prosecutions must give no less than 14 days written notice of the application to the person and to any other person who the Director of Public Prosecutions has reason to believe may have an interest in the property;

(b) the person, and any other person who claims an interest in the property, may appear and adduce evidence at the hearing of the application; and

(c) the Court may, at any time before the final determination of the application, direct the Director of Public Prosecutions

(i) to give notice of the application to any person who, in the opinion of the Court, appears to have an interest in the property;

(ii) to publish in the *Official Gazette* and in a newspaper published and circulating in Barbados notice of the application in the manner and containing such particulars and within the time that the Court considers appropriate.

(2) Where the Director of Public Prosecutions applies for a confiscation order against a person

(a) the Director of Public Prosecutions must give the person no less than 14 days written notice of the application; and

(b) the person may appear and adduce evidence at the hearing of the application.

Amendment of application

7. (1) The Court hearing an application under section 5(1) may, before final determination of the application, and on the application of the Director of Public Prosecutions, amend the application to include any other property or benefit, as the case may be, upon being satisfied that

(a) the property or benefit was not reasonably capable of identification when the application was originally made; or

(b) necessary evidence became available only after the application was originally made.

(2) Where the Director of Public Prosecutions applies to amend an application for a forfeiture order and the amendment would have the effect of including additional property in the application for the forfeiture order he must give no less than 14 days written notice of the application to amend to any person who he has reason to believe may have an interest in the property to be included in the application for the forfeiture order.

(3) Any person who claims an interest in the property to be included in the application for the forfeiture order may appear and adduce evidence at the hearing of the application to amend.

(4) Where the Director of Public Prosecutions applies to amend an application for a confiscation order against a person and the effect of the amendment would be to include an additional benefit in the application for the confiscation order he must give the person no less than 14 days written notice of the application to amend.

Procedure on application

8. (1) Where an application is made to the Court for a forfeiture order or a confiscation order in respect of a person's conviction of a scheduled offence whether in the magistrates' court or in the Court, the Court may, in determining the application, have regard to the transcript of any proceedings against the person for the offence.

(2) Where an application is made for a forfeiture order or a confiscation order to the Court before which the person was convicted, and the Court has not, when the application is made, passed sentence on the person for the offence, the Court may, if it is satisfied that it is reasonable to do so in all the circumstances, defer passing sentence until it has determined the application for the order.

Application for in rem forfeiture order on abscondence

9. (1) Where a person absconds in connection with a scheduled offence committed after the coming into force of this Act, the Director of Public Prosecutions may apply to the Court for a forfeiture order under section 17 in respect of any tainted property.

(2) For the purposes of this section, a person shall be deemed to have absconded in connection with a scheduled offence if

(a) an information has been laid alleging the commission of the offence by the person,

(b) a warrant for the arrest of the person has been issued in relation to that information, and

(c) reasonable attempts to arrest the person pursuant to the warrant have been unsuccessful during the period of six months commencing on the day the warrant was issued,

and the person shall be deemed to have so absconded on the last day of that period of six months.

(3) Where the Director of Public Prosecutions applies under this section for a forfeiture order against any

tainted property the Court shall, before hearing the application

(i) require notice of the application to be given to any person who, in the opinion of the Court, appçars to have an interest in the property;

(ii) direct notice of the application to be published in the *Official Gazette* and in a newspaper published and circulating in Barbados containing such particulars and for so long as the Court may require.

Forfeiture Orders

Forfeiture Order on conviction

10. (1) Where the Director of Public Prosecutions applies to the Court for a forfeiture order against property in respect of a person's conviction for a scheduled offence and the Court is satisfied that the property is tainted property in respect of the offence, the Court may order that the property or such of the property as is specified by the Court in the order be forfeited to the Crown.

(2) In determining whether property is tainted property the Court may infer

(a) that the property was used in, or in connection with the Commission of the offence, where the evidence establishes that the property was in the person's possession at the time of, or immediately after, the commission of the offence for which the person was convicted;

(b) that the property was derived, obtained or realised as a result of the commission by the person of the scheduled offence for which the person was convicted, where the evidence establishes that property, and in particular money, was found in the person's possession or under his control in a building, vehicle, receptacle or place during the course of investigations conducted by the police before or after the arrest and charge of the person for the scheduled offence for which the person was convicted;

(c) that the value of the increase represents property which was derived, obtained or realised by the person directly or indirectly from the commission of the scheduled offence for which the person was convicted, where the evidence establishes that the value, after the commission of the scheduled offence, of all ascertainable property of a person convicted of the scheduled offence exceeds the value of all ascertainable property of that person prior to the commission of that offence, and the Court is satisfied that the income of that person from sources unrelated to criminal activity of that person cannot reasonably account for the increase in value.

(3) Where the Court orders that property, other than money, be forfeited to the Crown, the Court shall

specify in the order the amount that it considers to be the value of the property at the time when the order is made.

(4) In considering whether a forfeiture order should be made under subsection (1), the Court shall have regard to

(a) the rights and interests, if any, of third parties in the property;

(b) the gravity of the offence concerned;

(c) any hardship that may reasonably be expected to be caused to any person, by the operation of the order; and

(d) the usé that is ordinarily made of the property, or the use to which the property was intended to be put.

(5) Where the Court makes a forfeiture order the Court may give such directions as are necessary or convenient for giving effect to the order.

Effect of forfeiture order

11. (1) Subject to subsection (2), where the Court makes a forfeiture order against any property, the property vests absolutely in the Crown by virtue of the order.

(2) Where property directed by a forfeiture order to be forfeited is registrable property

(a) the property vests in the Crown in equity but does not vests in the Crown at law until the applicable registration requirements have been complied with;

(b) the Crown is entitled to be registered as owner of the property;

(c) the Attorney-General has power on behalf of the Crown to do, or authorised the doing of, anything necessary or convenient to obtain the registration of the Crown as owner, including the execution of any instrument required to be executed by a person transferring an interest in property of that kind.

(3) Where the Court makes a forfeiture order against property

(a) the property shall not, except with the leave of the Court and in accordance with any directions of the Court be disposed of, or otherwise dealt with, by or on behalf of the Crown, before the relevant appeal date; and

(b) if, after the relevant appeal date, the order has not been discharged, the property may be disposed of and the proceeds applied or otherwise dealt with in accordance with the direction of the Attorney-General.

(4) Without limiting the generality of subsection (3)(b) the directions that may be given pursuant to that subsection include a direction that property is to be disposed of in accordance with the provisions of any enactment specified in the direction.

(5) In this section

"registrable property" means property the title to which is passed by registration in accordance with the provisions of the *Land Registration Act;* Cap. 229

"relevant appeal date" used in relation to a forfeiture order made in consequence of a person's conviction of a scheduled offence, means

(a) the date on which the period allowed by the rules of court for the lodging of an appeal against a person's conviction or for the lodging of an appeal against the making of a forfeiture order expires without an appeal having been lodged, whichever is the later; or

(b) where an appeal against a person's conviction or against the making of a forfeiture order is lodged, the date on which the appeal lapses in accordance with the rules of court or is finally determined, whichever is the later.

Voidable transfers

12. The Court may

(a) before making a forfeiture order; and

(b) in the case of property in respect of which a restraining order was made, where the order was served in accordance with section 33,

set aside any conveyance or transfer of the property that occurred after the seizure of the property or the service of the restraining order, unless the conveyance or transfer was made for valuable consideration to a person acting in good faith and without notice.

Protection of third parties

13. (1) Where an application is made for a forfeiture order against property, a person who claims an interest in the property may apply to the Court, before the forfeiture order is made, for an order under subsection (2).

(2) If a person applies to the Court for an order under this section in respect of his interest in property and the Court is satisfied on a balance of probabilities

(a) that he was not in any way involved in the commission of the offence; and

(b) where he acquired the interest during or after the commission of the offence, that he acquired the interest

(i) for sufficient consideration; and

(ii) without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time he acquired it, property that was tainted property,

the Court shall make an order declaring the nature, extent and value (as at the time the order is made) of his interest.

(3) Subject to subsection (4), where a forfeiture order has already been made directing the forfeiture of property, a person who claims an interest in the property may before the end of the period of 12 months commencing on the day on which the forfeiture order is made, apply under this subsection to the Court for an order under subsection (2).

(4) A person who

(a) had knowledge of the application for the forfeiture order before the order was made; or

(b) appeared at the hearing of that application,

shall not be permitted to make an application under subsection (3), except with the leave of the Court.

(5) A person who makes an application under subsection (1) or (3) must give no less than 14 days written notice of the making of the application to the Director of Public Prosecutions, who shall be a party to any proceedings in the application.

(6) An applicant or the Director of Public Prosecutions may in accordance with the rules of court, appeal to the Court of Appeal from an order made under subsection (2).

(7) The Public Trustee shall, on application made by any person who has obtained an order under subsection (2), and where the period allowed by the rules of court with respect to the making of appeals has expired and any appeal from that order taken under subsection (6) has been determined.

(a) direct that the property or the part thereof to which the interest of the applicant relates be returned to the applicant; or

(b) direct that an amount equal to the value of the interest of the applicant, as declared in the order, be paid to the applicant.

Discharge of forfeiture order on appeal and quashing of conviction

14. (1) Where the Court makes a forfeiture order against property in reliance on a person's conviction of a scheduled offence and the conviction is subsequently quashed, the quashing of the conviction discharges the order.

(2) Where a forfeiture order against property is discharged as provided for in subsection (1) or by the Court hearing an appeal against the making of the order, any person who claims to have an interest in the property immediately before the making of the forfeiture order may apply to the Public Trustee in writing for the transfer of the interest to the person.

(3) On receipt of an application under subsection (2) the Public Trustee shall

(a) if the interest is vested in the Crown, give directions that the property or part thereof to which the interest of the applicant relates be transferred to the person; or

(b) in any other case, direct that there be payable to the person an amount equal to the value of the interest as at the time the order is made.

(4) In the exercise of his powers under this section and section 13 the Public Trustee shall have the power to do or authorise the doing of anything necessary or convenient to effect the transfer or return of property, including the execution of any instrument and the making of an application for the registration of an interest in the property on any appropriate register.

Payment instead of forfeiture order

15. Where the Court is satisfied that a forfeiture order should be made in respect of the property of a person convicted of a scheduled offence but that the property or any part thereof or interest therein cannot be made subject to such an order and, in particular

(a) cannot, on the exercise of due diligence, be located;

(b) has been transferred to a third party in circumstances which do not give rise to a reasonable inference that the title or interest was transferred for the purpose of avoiding the forfeiture of the property;

(c) is located outside Barbados;

(d) has been substantially diminished in value or rendered worthless; or

(e) has been commingled with other property that cannot be divided without difficulty,

the Court may, instead of ordering the property or part thereof or interest therein to be forfeited, order the person to pay to the Crown an amount equal to the value of the property, part or interest.

Application of procedure for enforcing fines

16. (1) Where the Court orders a person to pay an amount under section 15 that amount shall be treated as if it were a fine imposed upon him in respect of a conviction of a scheduled offence and the Court shall

Cap. 1

(a) notwithstanding anything contained in section 22 of the *Interpretation Act*, impose, in default of the payment of that amount, a term of imprisonment

(i) of 18 months, where the amount does not exceed $10,000;

(ii) of 2 years, where the amount exceeds $10,000 but does not exceed $20,000;

(iii) of 3 years, where the amount exceeds $20,000 but does not exceed $50,000;

(iv) of 5 years, where the amount exceeds $50,000 but does not exceed $100,000;

(v) of 7 years, where the amount exceeds $100,000 but does not exceed $200,000;

(vi) of 10 years, where the amount exceeds $200,000 but does not exceed $1,000,000;

(vii) of 15 years, where the amount exceeds $1,000,000;

(b) direct that the term of imprisonment imposed pursuant to paragraph (a), in the case of conviction for an offence against the *Drug Abuse (Prevention and Control) Act*, be served consecutively to any other form of imprisonment imposed on the person, or that the person is then serving;

(c) direct that the *Prisons Act* and any regulations made thereunder regarding the remission of sentences of prisoners serving a term of imprisonment shall not apply in relation to a term of imprisonment imposed on a person pursuant to paragraph (a) in the case of a conviction for an offence against the *Drug Abuse (Prevention and Control) Act*. Cap. 168

Forfeiture order on abscondence

17. (1) Subject to section 9(3), where an application is made to the Court under section 9(1) for a forfeiture order against any tainted property in consequence of a person's abscondence in connection with a scheduled offence and the Court is satisfied that

(a) any property is tainted property in respect of the offence;

(b) proceedings in respect of a scheduled offence committed in relation to that property were commenced; and

(c) the accused charged with the offence referred to in paragraph (b) has absconded

the Court may order that the property or such of the property as is specified by the Court in the order be forfeited to the Crown.

(2) The provisions of sections 10(2), (3), (4) and (5), 11, 12 and 13 shall apply with such modifications as are necessary to give effect to this section.

Confiscation Orders

Confiscation order on conviction

18. (1) Subject to this section, where the Director of Public Prosecutions applies to the Court for a confiscation order against a person in respect of that person's conviction of a scheduled offence the Court shall, if it is satisfied that the person has benefited from that offence order him to pay to the Crown an amount equal to the value of his benefits from the offence or such lesser amount as the Court certifies in accordance with section 21 to be the amount that might be realised at the time the confiscation order is made.

(2) The Court shall assess the value of the benefits derived by a person from the commission of an offence in accordance with sections 19 to 22

(3) The Court shall not make a confiscation order under this section

(a) until the period allowed by the rules of court for the lodging of an appeal against conviction has expired without such an appeal having been lodged; or

(b) where an appeal against convictions has been lodged, until the appeal lapses in accordance with the rules of court or is finally determined, whichever is the later date.

Rules for determining benefit and assessing value

19. (1) Where a person obtains property as the result of, or in connection with the commission of, a scheduled offence, his benefit is the value of the property so obtained.

(2) Where a person derives an advantage as a result of or, in connection with the commission of a scheduled offence, his advantage shall be deemed to be a sum of money equal to the value of the advantage so derived.

(3) The Court, in determining whether a person has benefited from the commission of a scheduled offence or from that offence taken together with other scheduled offences and, if he has, in assessing the value of the benefit, shall unless the contrary is proved, deem

(a) all property appearing to the Court to be held by the person on the day on which the application is made; and

(b) all property appearing to the Court to be held by the person at any time

(i) within the period between the day the scheduled offence, or the earliest offence, was committed and the day on which the application is made; or

(ii) within the period of 6 years immediately before the day on which the application is made; whichever is longer

to be property that came into the possession or under the control of the person by reason of the commission of that scheduled offence or those scheduled offences for which the person was convicted;

(c) any expenditure by the person since the beginning of that period to be expenditure met out of payments received by him as a result of, or in connection with, the commission of that scheduled offence or those scheduled offences; and

(d) any property received or deemed to have been received by the person at any time as a result of, or in connection with, the commission by him of that scheduled offence, or those scheduled offences as property received by him free of any interests therein.

(4) Where a confiscation order has previously been made against a person, in assessing the value of any benefit derived by him from the commission of the scheduled offence, the Court shall leave out of account any of his benefits that are shown to the Court to have been taken into account in determining the amount to be recovered under that order.

(5) If evidence is given at the hearing of the application that the value of the person's property at any time after the commission of the scheduled offence exceeded the value of the person's property before the commission of the offence, then the Court shall, subject to subsection (6), treat the value of the benefits as being not less than the amount of the excess.

(6) If, after evidence of the kind referred to in subsection (5) is given, the person satisfies the Court that the whole or part of the excess was due to causes unrelated to the commission of the scheduled offence, subsection (5) does not apply to the excess or, as the case may be, that part.

Statements relating to benefits from commission of scheduled offences

20. (1) Where

(a) a person has been convicted of a scheduled offence and the Director of Public Prosecutions tenders to the Court a statement as to any matters relevant

(i) to determining whether the person has benefited from the offence or from any other scheduled offence of which he is convicted in the same proceedings or which is taken into account in determining his sentence, or

(ii) to an assessment of the value of the person's benefit from the offence or any other scheduled offence of which he is so convicted in the same proceedings or which is so taken into account, and

(b) the person accepts to any extent an allegation in the statement,

the Court may, for the purposes of so determining or making that assessment, treat his acceptance as conclusive of the matters to which it relates.

(2) Where

(a) a statement is tendered under subsection (1) (a), and

(b) the Court is satisfied that a copy of that statement has been served on the person,

the Court may require the person to indicate to what extent he accepts each allegation in the statement and, so far as he does not accept any such allegation, to indicate any matters he proposes to rely on.

(3) Where the person fails in any respect to comply with a requirement under subsection (2), he may be treated for the purposes of this section as having accepted every allegation in the statement, other than

(a) an allegation in respect of which he has complied with the requirement; and

(b) an allegation that he has benefited from the scheduled offence or that any property or advantage was obtained by him as a result of, or in connection with the commission of the offence.

(4) Where

(a) the person tenders to the Court a statement as to any matters relevant to determining the amount that might be realised at the time the confiscation order is made; and

(b) the Director of Public Prosecutions accepts to any extent any allegation in the statement,

the Court may, for the purposes of that determination, treat the acceptance of the Director of Public Prosecutions as conclusive of the matters to which it relates.

(5) An allegation may be accepted or a matter indicated for the purposes of this section either –

(a) orally before the Court; or

(b) in writing in accordance with rules of court.

(6) An acceptance by a person under this section that he received any benefits from the commission of a scheduled offence is admissible in any proceedings for any offence.

Amount to be recovered under confiscation order

21. (1) Subject to subsection (2), the amount to be recovered in the person's case under a confiscation order shall be the amount which the Court assesses to be the value of the person's benefit from the scheduled offence or if more than one, all the offences in respect of which the order may be made.

(2) Where the Court is satisfied as to any matter relevant for determining the amount which might be realised at the time the confiscation order is made (whether by an acceptance under section 20 or otherwise) the Court may issue a certificate giving the Court's opinion as to the matters concerned, and shall do so if satisfied that the amount that might be realised at the time the confiscation order is made is less than the amount that the Court assesses to be the value of the person's benefit from the offence, or if more than one, all the offences in respect of which the confiscation order may be made.

Variation of confiscation orders

22. (1) Where

(a) the Court makes a confiscation order against a person in relation to a scheduled offence;

(b) in calculating the amount of the confiscation order, the Court took into account a forfeiture of the property or a proposed forfeiture of the property or a proposed forfeiture order in respect of property; and

(c) an appeal against the forfeiture or forfeiture order is allowed or the proceedings for the proposed forfeiture order terminate without the proposed forfeiture order being made

the Director of Public Prosecutions may apply to the Court for a variation of the confiscation order to increase the amount of the order by the value of the property not so forfeited and the Court may, if it considers it appropriate to do so, vary the order accordingly.

(2) Where

(a) the Court makes a confiscation order against a person in relation to a scheduled offence;

(b) in calculating the amount of the confiscation order, the Court took into account, in accordance with section 4(5) and (6) an amount of tax paid by the person; and

(c) an amount is repaid or refunded to the person in respect of that tax,

the Director of Public Prosecutions may apply to the Court for a variation of the confiscation order to increase the order by the amount repaid or refunded and the Court may, if it considers it appropriate to do so, vary the order accordingly.

Court may lift corporate veil

23. (1) In assessing the value of benefits derived by a person from the commission of a scheduled offence, the Court may treat as property of the person any property that, in the opinion of the Court, is subject to the effective control of the person whether or not he has

(a) any legal or equitable interest in the property; or

(b) any right, power or privilege in connection with the property.

(2) Without prejudice to the generality of subsection (1) the Court may have regard to

(a) shareholdings in, debentures over or directorships in any company that has an interest, whether direct or indirect, in the property, and for this purpose the Court may order the investigation and inspection of the books of a named company;

(b) any trust that has any relationship to the property;

(c) any relationship whatsoever between persons having an interest in the property or in companies of the kind referred to in paragraph (a) or trust of the kind referred to in paragraph (b), and any other persons.

(3) Where the Court, for the purposes of making a confiscation order against a person, treats particular property as the person's property pursuant to subsection (1), the Court may, on application by the Director of Public Prosecutions, make an order declaring that the property is available to satisfy the order.

(4) Where the Court declares that property is available to satisfy a confiscation order

(a) the order may be enforced against the property as if the property were property of the person against whom the order is made; and

(b) a restraining order may be made in respect of the property as if the property were property of the person against whom the order is made.

(5) Where the Director of Public Prosecutions makes an application for an order under subsection (3) that property is available to satisfy a confiscation order against a person

(a) the Director of Public Prosecutions shall give written notice of the application to the person and to any person who the Director of Public Prosecutions has reason to believe may have an interest on the property; and

(b) the person and any person who claims an interest in the property may appear and adduce evidence at the hearing.

Enforcement of confiscation orders

24. Where the Court orders a person to pay an amount under a confiscation order the provisions of section 16 shall apply with such modifications as the Court may determine for the purpose of empowering the Court to impose a term of imprisonment on a person in default of compliance by him of a confiscation order.

Part III

PROVISIONS FOR FACILITATING POLICE INVESTIGATIONS AND PRESERVING PROPERTY LIABLE TO FORFEITURE AND CONFISCATION ORDERS

Powers of Search and Seizure

Warrant to search land etc. for tainted property

25. (1) Where a police officer has reasonable grounds for suspecting that there is, or there may be within the next following 72 hours, tainted property upon any land or upon or in any premises the police officer may lay before a magistrate an information on oath setting out those grounds and apply for the issue of a warrant to search the land or premises for tainted property.

(2) Where an application is made under subsection (1) for a search warrant, the magistrate may, subject to section 26, issue a warrant authorising a police officer (whether named in the warrant or not) with such assistance and by such force as is necessary and reasonable

(a) to enter upon the land or upon or into the premises;

(b) to search the land or premises for tainted property; and

(c) to seize property found in the course of the search that the police officer believes on reasonable grounds, to be tainted property.

Restrictions on issue of search warrants

26. A magistrate shall not issue a warrant under section 25 unless

(a) the informant or some other person has given to the magistrate, either on oath or by affidavit, any further information that the magistrate may require concerning the grounds on which the issue of the warrant is sought;

(b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

Matters to be included in search warrant

27. A warrant issued under section 25 shall include

(a) a statement of the purpose for which the warrant is issued, and a reference to the nature of the scheduled offence;

(b) a description of the kind of property to be seized;

(c) a time, not being later than twenty-eight days, upon which the warrant ceases to have effect; and

(d) a statement as to whether entry is authorised to be made at any time of the day or night, or during specified hours of the day or night.

Police may seize other tainted property

28. Where in the course of a search under a warrant issued pursuant to section 25 for tainted property in relation to a scheduled offence, a police officer finds

(a) property that he believes, on reasonable grounds, to be

(i) tainted property in relation to the offence, although not of a kind specified in the warrant, or

(ii) tainted property in relation to another scheduled offence, or

(b) anything that he believes, on reasonable grounds will afford evidence as to the commission of a criminal offence,

and the police officer believes, on reasonable grounds that it is necessary to seize that property or thing in order to prevent its concealment, loss or destruction or its use in committing, continuing or repeating the offence or any other offence, the warrant shall be deemed to authorise the police officer to seize that property or thing.

Record of property seized

29. (1) A police officer who executes a warrant issued under this Part shall

(a) detain the property seized, taking reasonable care to ensure that the property is preserved so that it may be dealt with in accordance with the law;

(b) as soon as practicable after the execution of the warrant, but within a period of 48 hours thereafter, prepare a written report, identifying the property seized and the location where the property is being detained and forward a copy of the report to the clerk of the court in the magisterial district where the property is being detained.

(2) A magistrate shall, on application, provide a copy of the report

(a) to the person from whom the property was seized; and

(b) to any other person who appears to the magistrate to have an interest in the property.

(3) A request under subsection (2) by a person, other than the person from whom the property was seized, shall be in writing and supported by affidavit sworn to by the person making the request.

Return of property seized

30. (1) Where property has been seized under section 28, otherwise than because it may afford evidence of the commission of a scheduled offence, any person who claims an interest in the property may apply to the Court for an order that the property be returned to him.

(2) Where a person makes an application under subsection (1) and the Court is satisfied that

(a) the person is entitled to possession of the property,

(b) the property is not tainted property in relation to the scheduled offence; and

(c) the person in respect of whose conviction, charging or proposed charging the seizure of the property was made has no interest in the property,

the Court shall order the Commissioner to return the property to the person, and the Commissioner shall arrange for the property to be returned.

(3) Where

(a) at the time when the property was seized, an information had not been laid in respect of a scheduled offence,

(b) property has been seized under section 28, otherwise than because it may afford evidence as to the commission of an offence,

(c) at the end of the period of 48 hours after the time when the property was seized, an information has not been laid in respect of a scheduled offence,

the Commissioner shall, subject to subsections (5) and (6), arrange for the property to be returned to the person from whose possession it was seized as soon as practicable after the end of that period.

(4) Where

(a) property has been seized under section 28, otherwise than because it may afford evidence as to the commission of a scheduled offence,

(b) either of the following conditions is satisfied, that is to say,

(i) before the property was seized, a person had been convicted of a scheduled offence or an information had been laid in respect of a scheduled offence, or

(ii) before the property was seized, an information had not been laid in respect of a scheduled offence, but an information was laid in respect of a scheduled offence within 48 hours after the time when the property was seized, and

(c) no forfeiture order has been made against the property within the period of 14 days after the property was seized,

the Commissioner shall, subject to subsections (5) and (6), arrange for the property to be returned to the person from whose possession it was seized as soon as practicable after the end of that period.

(5) Where

(a) property has been seized under section 28, otherwise than because it may afford evidence as to the commission of a scheduled offence,

(b) but for this subsection, the Commissioner would be required to arrange for the property to be returned to a person as soon as practicable after the end of a particular period, and

(c) before the end of that period, a restraining order is made in relation to the property,

the Commissioner shall

(d) arrange for the property to be given to the Public Trustee in accordance with the restraining order, if the restraining order directs the Public Trustee to take custody and control of the property;

(e) arrange for the property to be kept until it is dealt with in accordance with any other provision of this Act, if the Court that made the restraining order has made an order under subsection (6) in relation to the property.

(6) Where

(a) property has been seized under section 28, otherwise than because it may afford evidence as to the commission of a scheduled offence,

(b) a restraining order is made in relation to the property, and

(c) at the time when the restraining order is made, the property is in the possession of the Commissioner,

the Commissioner may apply to the Court that made the restraining order for an order that he retain possession of the property, and the Court may, if satisfied that there are reasonable grounds for believing that the property may afford evidence as to the commission of a scheduled offence or any other offence, make an order that the Commissioner retain the property for so long as the property is so required as evidence as to the commission of that offence.

(7) Where the Commissioner applies to the Court for an order under subsection (6), a witness shall not be required to answer any question or to produce any document if the Court is satisfied that the answering of the question or the production of the document may prejudice the investigation of, or the prosecution of a person for, an offence.

(8) Where

(a) property has been seized under section 28, otherwise than because it may afford evidence as to the commission of a scheduled offence,

(b) an application is made for a restraining order or a forfeiture order in respect of the property,

(c) the application is refused, and

(d) at the time when the application is refused, the property is in the possession of the Commissioner,

the Commissioner shall arrange for the property to be returned to the person from whose possession it was seized as soon as practicable after the refusal.

(9) Where

(a) property has been seized under section 28, and

(b) while the property is in the possession of the Commissioner a forfeiture order is made in respect of the property,

the Commissioner shall deal with the property as directed by the order.

Restraining Orders

Application for restraining order

31. (1) Where a person, (in this section and section 32 called "the defendant")

(a) has been convicted of a scheduled offence, or

(b) has been charged with a scheduled offence

the Director of Public Prosecutions may apply to the Court for a restraining order against any realisable property held by the defendant or specified realisable property held by a person other than the defendant.

(2) An application for a restraining order may be made *ex parte* and shall be in writing and be accompanied by an affidavit stating

(a) where the defendant has been convicted of a scheduled offence, the scheduled offence for which the defendant was convicted, the date of the conviction, the Court before which the conviction was obtained and whether an appeal has been lodged against the conviction;

(b) where the defendant has not been convicted of a scheduled offence, the scheduled offence for which he is charged and the grounds for believing that the defendant committed the offence;

(c) a description of the property in respect of which the restraining order is sought;

(d) the name and address of the person who is believed to be in possession of the property;

(e) the grounds for the belief that the property is tainted property in relation to the offence;

(f) the grounds for the belief that the defendant derived a benefit directly or indirectly from the commission of the offence;

(g) where the application seeks a restraining order against property of a person, other than the defendant, the grounds for the belief that the property is tainted property in relation to the offence and is subject to the effective control of the defendant;

(h) the grounds for the belief that a forfeiture order or a confiscation order may be or is likely to be made under this Act in respect of the property.

Restraining orders

32. (1) Subject to this section, where the Director of Public Prosecutions applies to the Court for a restraining order against property and the Court is satisfied that

(a) the defendant has been convicted of a scheduled offence, or has been charged with a scheduled offence;

(b) there are reasonable grounds for believing that the defendant committed the offence, where the defendant has not been convicted of a scheduled offence;

(c) there is reasonable cause to believe that the property is tainted property in relation to an offence or that the defendant derived a benefit directly or indirectly from the commission of the offence;

(d) there are reasonable grounds for believing that the property is tainted property in relation to an offence and that the property is subject to the effective control of the defendant, where the application seeks a restraining order against property of a person other than the defendant; and

(e) there are reasonable grounds for believing that a forfeiture order or a confiscation order is likely to be made under this Act in respect of the property,

the Court may make an order

(f) prohibiting the defendant or any person from disposing of, or otherwise dealing with, the property or such part thereof or interest therein as is specified in the order, except in such manner as may be specified in the order; and

(g) at the request of the Director of Public Prosecutions, where the Court is satisfied that the circumstances so require

(i) directing the Public Trustee or such other person as the Court may appoint to take custody of the property or such part thereof as is specified in the order and to manage or otherwise deal with all or any part of the property in accordance with the directions of the Court; and

(ii) requiring any person having possession of the property to give possession thereof to the Public Trustee or to the person appointed under sub-paragraph (i) to take custody and control of the property.

(2) An order under subsection (1) may be made subject to such conditions as the Court thinks fit and, without limiting the generality of this, may make provision for meeting, out of the property or a specified part of the property, all or any of the following

(a) the person's reasonable living expenses (including the reasonable living expenses of the person's dependants (if any) and reasonable business expenses;

(b) the person's reasonable expenses in defending the criminal charge and any proceedings under this Act.

(3) In determining whether there are reasonable grounds for believing that property is subject to the effective control of the defendant the Court may have regard to the matters referred to in section 23(2).

(4) Where the Public Trustee or other person appointed under subsection (1)(g)(i) is given a direction in relation to any property, the Public Trustee or that other person may apply by summons to the Court for directions on any question respecting the management or preservation of the property under this control.

(5) An application under subsection (4) shall be served upon all persons interested in the application or such of them as the Court thinks expedient and all such persons shall be at liberty to appear at the hearing and be heard.

(6) The Public Trustee or other person appointed under subsection (1)(g)(i) in acting on directions given by the Court shall be deemed to have discharged his duty in the subject matter of the application.

Undertakings by Crown

33. (1) Before making an order under section 32, the Court may require the Crown to give such undertakings as the Court considers appropriate with respect to the payment of damages or costs, or both, in relation to the making and execution of the order.

(2) For the purposes of this section, the Director of Public Prosecutions may, after consultation with the Attorney-General, on behalf of the Crown, give to the Court such undertakings with respect to the payment of damages or costs, or both, as are required by the Court.

Notice of application for restraining order

34. Before making a restraining order, the Court may require notice to be given to, and may hear, any person who, in the opinion of the Court, appears to have an interest in the property, unless the Court is of the opinion that giving such notice before making the order would result in the disappearance, dissipation or reduction in value of the property.

Service of restraining order

35. A copy of a restraining order shall be served on a person affected by the order in such manner as the Court directs or as may be prescribed by rules of court.

Registration of restraining order

Cap. 210

36. (1) A copy of a restraining order which affects lands, tenements or hereditaments in Barbados shall be registered with the Registrar of the Supreme Court in accordance with the *Registration of Judgments Act*, and with the Registrar of Titles.

Cap. 229

(2) A restraining order is of no effect with respect to registered land unless it is registered as a charge under the *Land Registration Act*.

Cap. 210
Cap. 229

(3) Where particulars of a restraining order are recorded or registered, as the case may be, in accordance with the *Registration of Judgments Act* or the *Land Registration Act*, a person who subsequently deals with the property shall, for the purposes of section 37, be deemed to have notice of the order at the time of the dealing.

Contravention of restraining order

37. (1) A person who knowingly contravenes a restraining order by disposing of, or otherwise dealing

with, property that is subject to the restraining order commits an indictable offence punishable upon conviction by

(a) a fine of $100,000 or imprisonment for a period of 5 years or both, in the case of a natural person; or

(b) a fine of $500,000, in the case of a body corporate.

(2) Where a restraining order is made against property and the property is disposed of, or otherwise dealt with, in contravention of the restraining order, and the disposition or dealing was not for sufficient consideration or not in favour of a person who acted in good faith and without notice, the Director of Public Prosecutions may apply to the Court that made the restraining order for an order that the disposition or dealing be set aside.

(3) Where the Director of Public Prosecutions makes an application under subsection (2) in relation to a disposition or dealing, the Court may

(a) set aside the disposition or dealing as from the day on which the disposition or dealing took place; or

(b) set aside the disposition or dealing as from the day of the order under this subsection and declare the respective rights of any persons who acquired interests in the property on, or after the day on which the disposition or dealing took place, and before the day of the order under this subsection.

Duration of restraining order

38. A restraining order remains in force until

(a) it is revoked or varied under section 39;

(b) it ceases to be in force under section 40; or

(c) a forfeiture order or a confiscation order, as the case may be, is made in respect of property which is the subject of the order; or

(d) the property which is the subject of the order becomes forfeited to the Crown under any other enactment.

Review of Search Warrants and Restraining Orders

Review of search warrants and restraining orders

39. (1) A person who has an interest in property that was seized under a warrant issued pursuant to section 25 or in respect of which a restraining order was made may, at any time, apply to the Court

(a) for an order under subsection (4); or

(b) for permission to examine the property.

(2) An application under subsection (1) shall not be heard by the Court unless the applicant has given to the Director of Public Prosecutions at least three days clear notice in writing of the application.

(3) The Court may require notice of the application to be given to, and may hear, any person who, in the opinion of the Court, appears to have an interest in the property.

(4) On an application made under subsection (1)(a) in respect of any property, the Court may, after hearing the applicant, the Director of Public Prosecutions and any other person to whom notice was given pursuant to subsection (3), order that the property or any part thereof be returned to the applicant or, in the case of a restraining order, revoke the order or vary the order to exclude the property or any interest in the property or any part thereof from the application of the order, or make the order subject to such conditions as the Court thinks fit,

(a) if the applicant enters into a recognizance before the Court, with or without sureties, in such amount and with such conditions, as the Court directs and, where the Court considers it appropriate, deposits with the Court such sum of money or other valuable security as the Court directs;

(b) if the conditions referred to in subsection (5) are satisfied; or

(c) for the purpose of

(i) meeting the reasonable living expenses of the person who was in possession of the property at the time the warrant was executed or the order was made or any person who, in the opinion of the Court, has an interest in the property and of the dependants of that person,

(ii) meeting the reasonable business or legal expenses of a person referred to in sub-paragraph (i).

(5) An order under subsection (4)(b) in respect of property may be made by the Court if the Court is satisfied

(a) that a warrant should not have been issued pursuant to section 25 or a restraining order should not have been made, in respect of that property; or

(b) that the applicant is the lawful owner of, or lawfully entitled to possession of, the property and appears innocent of any complicity in a scheduled offence or of any collusion in relation to such an offence; and

(c) that the property will no longer be required for the purpose of any investigation or as evidence in any proceedings.

(6) On an application made to the Court under subsection (1)(b), the Court may order that the applicant be permitted to examine property subject to such terms as appear to the Court to be necessary or desirable to ensure that the property is safeguarded and preserved for the purpose for which it may subsequently be required.

Automatic expiry of restraining orders

40. (1) Subject to this section, where a restraining order has been made in relation to property, the restraining order shall not continue in force for a period of more than 6 months after the time of the making of the order unless before the expiration of that period, the Director of Public Prosecutions applies to the Court that made the order for an extension of the period of operation of the order.

(2) Where the Director of Public Prosecutions applies under subsection (1) for an extension of the period of operation of a restraining order and the Court is satisfied

(a) that a forfeiture order may be made in respect of the property or part thereof, or

(b) that a confiscation order may be made against a person in relation to property which is the subject of a restraining order,

the Court may extend for a specific period the period of operation of the restraining order and make such other order as it considers appropriate in relation to the operation of the restraining order.

Disposal of property seized or dealt with

41. Subject to this section, where the Court is satisfied that property will no longer be required for the purposes of section 10, 17 or 18 of this Act or any other enactment providing for forfeiture or for the purpose of any investigation or as evidence in any proceeding, the Court shall, on the application of the Director of Public Prosecutions or any person having an interest in the property or on the Court's own motion,

(a) where a restraining order has been made in relation to any property, revoke the order;

(b) where a recognizance has been entered into pursuant to section 39, cancel the recognizance; and

(c) where property has been seized under a warrant issued pursuant to section 25 or where the property is under the control of a person appointed pursuant to section 32(1)(g),

(i) if possession of it by the person from whom it was taken is lawful, order that it be returned to that person;

(ii) if possession of it by the person from whom it was taken is unlawful and the lawful owner or person who is lawfully entitled to its possession is known, order that it be returned to the lawful owner or the person who is lawfully entitled to its possession; or

(iii) if possession of it by the person from whom it was taken is unlawful and the lawful owner or person who is lawfully entitled to its possession is not known, may order that it be forfeited to the Crown, to be disposed of or

otherwise dealt with in accordance with the law.

Production Orders, and other Information gathering powers

Production and Inspection orders

42. (1) Where

(a) a person has been convicted of a scheduled offence and a police officer has reasonable grounds for suspecting that a person has possession or control of

(i) a document relevant to identifying, locating or quantifying property of the person who committed the offence or to identifying or locating a document necessary for the transfer of property of the person who committed the offence,

(ii) a document relevant to identifying, locating or quantifying tainted property in relation to the offence or to identifying or locating a document necessary for the transfer of tainted property in relation to the offence, or

(b) a police officer has reasonable grounds for suspecting that a person has committed a scheduled offence and that a person has possession or control of any document referred to in paragraph (a),

the police officer may apply to a Judge in Chambers in accordance with subsection (2) for an order under subsection (5) against the person suspected of having possession or control of a document of the kind referred to in paragraph (a) or against the person referred to in paragraph (b).

(2) An application under subsection (1) shall be made *ex parte* and shall be in writing and be accompanied by an affidavit.

(3) Where a police officer applies for an order under subsection (5) in respect of a scheduled offence and includes in the affidavit a statement to the effect that the officer has reasonable grounds to believe that

(a) the person who was convicted of the offence or who is believed to have committed the offence, derived a benefit directly or indirectly from the commission of the offence; and

(b) property specified in the affidavit is subject to the effective control of the person referred to in paragraph (a),

the Judge may treat any document relevant to identifying, locating or quantifying that property as a document in respect of which an order may be issued under subsection (5).

(4) In determining whether to treat a document relevant to identifying, locating or quantifying property referred to in subsection (3) as a document in respect of which an order may be issued under subsection (5), the Judge may have regard to the matters referred to in section 23(2).

(5) Where an application is made under subsection (1) for an order against a person, the Judge may, subject to subsections (6) and (7) make an order requiring the person to

(a) produce to a police officer any documents of the kind referred to in subsection (1) that are in the person's possession or control; or

(b) make available to a police officer for inspection, any documents of the kind referred to in subsection (1) that are in the person's possession or control.

(6) An order under subsection (5)(a) shall not be made in respect of accounting records used in the ordinary business of banking including ledgers, day-books, cash books and account books.

(7) A Judge shall not make an order under this section unless

(a) the applicant or some other person has given the Judge, either orally or by affidavit, such information as the Judge requires concerning the grounds on which the order is sought; and

(b) the Judge is satisfied that there are reasonable grounds for making the order.

(8) An order that a person produce a document or documents to a police officer shall specify the time when, and the place where, the document is or the documents are to be produced.

(9) An order that a person make a document or documents available to a police officer for inspection shall specify the time or times when the document is or the documents are to be made available.

Scope of police powers under production order etc.

43. (1) Where a document is produced to a police officer pursuant to an order under section 42, the police officer may

(a) inspect the document;

(b) take extracts from the document;

(c) make copies of the document; or

(d) retain the document if, and for so long as, retention of the document is reasonably necessary for the purposes of this Act.

(2) Where a document is made available to a police officer for inspection pursuant to an order under section 42, the police officer may

(a) inspect the document;

(b) take extracts from the document; or

(c) make copies of the document.

(3) Where a police officer retains a document pursuant to an order under section 42, the police officer shall

(a) give the person to whom the order was addressed a copy of the document certified by the police officer in writing to be a true copy of the document retained; and

(b) unless the person has received a copy of the document under paragraph (a), permit the person to

(i) inspect the document;

(ii) take extracts from the document; or

(iii) make copies of the document.

Evidential value of information

44. (1) Where a person produces or makes available a document pursuant to an order under section 42 the production or making available of the document, or an information, document or thing obtained as a direct or indirect consequence of the production or making available of the document, is not admissable against the person in any criminal proceedings except a proceeding for an offence against section 46.

(2) For the purposes of subsection (1), proceedings on an application for a restraining order, a forfeiture order or a confiscation order are not criminal proceedings.

(3) A person is not excused from producing or making available a document when required to do so by an order under section 42 on the grounds that

(a) the production or making available of the document might tend to incriminate the person or make the person liable to a penalty; or

(b) the production or making available of the document would be in breach of an obligation, whether imposed by enactment or otherwise, of the person not to disclose the existence or contents of the document.

Variation of production order

45. Where a Judge makes a production order requiring a person to produce a document to a police officer, the person may apply to the Judge or another Judge for a variation of the order and if the Judge hearing the application is satisfied that the document is essential to the business activities of the person, the Judge may vary the production order so that it requires the person to make the document available to a police officer for inspection.

Failure to comply with production order

46. (1) Where a person is required by a production order to produce a document to a police officer or make a document available to a police officer for inspection, the person commits an offence against this subsection if the person,

(a) contravenes the order without reasonable excuse; or

(b) in purported compliance with the order produces or makes available a document known to the person to be false or misleading in a material particular without

(i) indicating to the police officer to whom the document is produced or made available that the document is false or misleading and the respect in which the document is false or misleading; and

(ii) providing correct information to the police officer if the person is in possession of, or can reasonably acquire, the correct information.

(2) An offence against subsection (1) is punishable upon summary conviction by

(a) a fine of $10,000 or imprisonment for a period of 2 years, or both, where the offender is a natural person;

(b) a fine of $50,000, where the offender is a body corporate.

Search warrant to facilitate investigations

47. (1) Where

(a) a person is convicted of a scheduled offence and a police officer has reasonable grounds for suspecting that there is in any premises any document of the type specified in section 42; or

(b) a police officer has reasonable grounds for suspecting that a person has committed a scheduled offence and there is in any premises any document of the type specified in section 42,

the police officer may apply to a Judge for a warrant under subsection (2) to search the premises.

(2) Where an application is made under subsection (1) for a search warrant, the Judge may, subject to subsections (3) and (4), issue a warrant authorising a police officer (whether or not named in the warrant) with such assistance and by such force as is necessary and reasonable

(a) to enter the premises;

(b) to search the premises for documents of the kind referred to in subsection (1); and

(c) to seize and retain any document found in the course of the search that in the opinion of the police officer is likely to be of substantial value (whether by itself or together with other documents) to the investigation in respect of which the application is made.

(3) A Judge shall not issue a search warrant under subsection (2) unless the Judge is satisfied that

(a) a production order has been made in respect of the document and has not been complied with;

(b) a production order in respect of the document would be unlikely to be effective because there are reasonable grounds to suspect that such a production order would not be complied with;

(c) the document involved cannot be identified or described with sufficient particularity to enable a production order to be made in respect of the document;

(d) it is not practicable to communicate with any person having the power to grant entry to the premises; or

(e) entry to the premises will not be granted unless a warrant is produced; or

(f) the investigation for the purposes of which the application is made might be seriously prejudiced unless the police officer is granted immediate access to the document without notice of any person.

(4) A Judge shall not issue a search warrant under subsection (2) unless

(a) the applicant or some other person has given the Judge, either orally or by affidavit, any further information that the Judge requires concerning the grounds on which the search warrant is sought; and

(b) the Judge is satisfied that there are reasonable grounds for issuing the search warrant.

(5) A search warrant issued under this section shall state

(a) the purpose for which the warrant is issued, including a reference to the scheduled offence that has been, or is believed to have been, committed;

(b) whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night;

(c) a description of the kind of documents authorised to be seized; and

(d) the date, not being later than 28 days after the day of issue of the warrant, upon which the warrant ceases to have effect.

(6) Where a police officer enters premises in execution of a warrant issued under this section, he may seize and retain

(a) any document, other than items subject to legal privilege, which is likely to be of substantial value (whether by itself or together with other documents) to the investigation for the purpose of which the warrant was issued; and

(b) any thing that the police officer believes, on reasonable grounds, will afford evidence as to the commission of a criminal offence.

(7) In this section

the expression "item subject to legal privilege" means

(a) communications between an attorney-at-law and his client; and

(b) communications made in connection with or in contemplation of legal proceedings and for the purposes of these proceedings,

being communications which would in legal proceedings be protected from disclosure by virtue of any rule of law relating to the confidentiality of communications;

"premises" includes any place and in particular any building, receptacle or vehicle.

Monitoring Orders

Monitoring orders

48. (1) A police officer may apply to a Judge in Chambers in accordance with subsection (2) for an order (in this section called a "monitoring order") directing a financial institution to give information to a police officer.

(2) An application under subsection (1) shall be made ex parte and shall be in writing and be accompanied by an affidavit.

(3) A monitoring order shall direct a financial institution to disclose information obtained by the institution about transactions conducted through an account held by a particular person with the institution.

(4) A monitoring order shall apply in relation to transactions conducted during the period specified in the order, being a period commencing not earlier than the day on which notice of the order is given to the financial institution and ending not later than 3 months after the date of the order.

(5) A Judge shall not make a monitoring order unless he is satisfied that there are reasonable grounds for suspecting that the person in respect of whose account the information is sought

(a) has committed, or is about to commit a scheduled offence;

(b) was involved in the commission, or is about to be involved in the commission of a scheduled offence; or

(c) has benefited directly or indirectly, or is about to benefit directly or indirectly, from the commission of a scheduled offence.

(6) A monitoring order shall specify

(a) the name or names in which the account is believed to be held;

(b) the class of information that the institution is required to give; and

(c) the name or names of the police officer to whom the information is to be given and the manner in which the information is to be given.

(7) Where a financial institution is, or has been, subject to a monitoring order, the fact that the monitoring order has been made shall be disregarded for the purposes of the application of sections 61 and 62 in relation to the institution.

(8) Where a financial institution that has been given notice of a monitoring order knowingly

(a) contravenes the order; or

(b) provides false or misleading information in purported compliance with the order

the institution commits an offence against this subsection and is liable on summary conviction to a fine of $500,000.

(10) A reference in this section to a transaction conducted through an account includes a reference to

(a) the making of a fixed term deposit;

(b) in relation to a fixed term deposit, the transfer of the amount deposited or any part thereof, at the end of the term; and

(c) the opening, existence or use of a deposit box held by the institution.

Monitoring orders not to be disclosed

49. (1) A financial institution that is, or has been, subject to a monitoring order shall not disclose the existence or the operation of the order to any person except

(a) an officer or agent of the institution, for the purpose of ensuring that the order is complied with; or

(b) an attorney-at-law, for the purpose of obtaining legal advice or representation in relation to the order; or

(c) the Commissioner or a police officer authorised in writing by the Commissioner to receive the information.

(2) A person referred to in subsection (1) (a), (b) or (c) to whom a disclosure of the existence or operation of a monitoring order has been made, whether in accordance with subsection (1) or a previous application of this subsection or otherwise, shall not

(a) disclose the existence or operation of the order except to another person referred to in the said subsection (1) for the purposes of

(i) the performance of that person's duties, if the disclosure is made by the Commissioner or a police officer,

(ii) ensuring that the order is complied with or obtaining legal advice or representation in relation to the order, if the disclosure is made by an officer or agent of the institution, or

(iii) giving legal advice or making representations in relation to the order, if the disclosure is made by an attorney-at-law; or

(b) make a record of, or disclose, the existence of the operation of the order in any circumstances, even when he ceases to be a person referred to in subsection (1).

(3) Nothing in subsection (2) prevents the disclosure by a person referred to in subsection (1) (c) of the existence or operation of a monitoring order

(a) for the purposes of, or in connection with, legal proceedings; or

(b) in the course of proceedings before a court.

(4) A person referred to in subsection (1) (b) shall not be required to disclose to any court the existence or operation of a monitoring order.

(5) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to

(a) a fine of $20,000 or imprisonment for a period of 3 years or both, in the case of a natural person; or

(b) a fine of $100,000, in the case of a body corporate.

(6) A reference in this section to disclosing the existence or operation of a monitoring order to a person includes a reference to disclosing information to the person from which that person could reasonably be expected to infer the existence or operation of the monitoring order.

Obligations of Financial Institutions

Retention of records of financial institutions

50. (1) Subject to this section, and to section 51, a financial institution shall retain, in its original form for the minimum retention period applicable to the document,

(a) a document that relates to a financial transaction carried out by the institution in its capacity as a financial institution and, without limiting the generality of this, includes a document that relates to

(i) the opening or closing by a person of an account with the institution;

(ii) the operation by a person of an account with the institution;

(iii) the opening or use by a person of a deposit box held by the institution;

(iv) the telegraphic or electronic transfer of funds by the institution on behalf of a person to another person;

(v) the transmission of funds between Barbados and a foreign country or between foreign countries on behalf of a person; or

(vi) an application by a person for a loan from the institution, where a loan is made to the person pursuant to the application; and

(b) a document that relates to a financial transaction carried out by the institution in its capacity as a financial institution that is given to the institution by or on behalf of the person, whether or not the document is signed by or on behalf of the person.

(2) For the purposes of this section, the expression "minimum retention period" means,

(a) where the document relates to the opening of an account with the institution, the period of 7 years after the day on which the account is closed;

(b) where the document relates to the opening by a person of a deposit box

held by the institution, the period of 7 years after the day on which the deposit box ceases to be used by the person; and

(c) in any other case, the period of 7 years after the day on which the transaction takes place.

(3) Subsection (1) does not apply to a financial transaction document that relates to a single deposit, credit, withdrawal, debit or transfer of an amount of money that does not exceed $5,000 or such larger amount as may be prescribed for purposes of this subsection.

(4) A financial institution required to retain documents under this section shall retain them on microfilm or in such other manner that makes retrieval of the information contained in the documents or the documents as the case may be reasonably practicable.

(5) A financial institution that contravenes subsection (1) or (4) commits an offence against this section and is liable, on summary conviction, to a fine of $10,000.

(6) This section does not limit any other obligation of a financial institution to retain documents.

Register of original documents

51. (1) Where a financial institution is required by law to release the original of a document before the end of the minimum retention period applicable to the document, the institution shall retain a complete copy of the document until the period has ended or the original document is returned, whichever occurs first.

(2) A financial institution shall maintain a register of documents released under subsection (1).

(3) A financial institution that contravenes subsection (1) or (2) commits an offence against this section and is liable, on summary conviction, to a fine of $10,000.

Communication of information to law enforcement authorities

52. (1) Where a financial institution has information about an account held with the institution and the institution has reasonable grounds for believing that

(a) the information may be relevant to an investigation of, or the prosecution of, a person for an offence; or

(b) the information would otherwise be of assistance in the enforcement of this Act or any regulations made thereunder,

the institution may give the information to a police officer or the Director of Public Prosecutions.

(2) An action, suit or proceedings does not lie against

(a) a financial institution, or

(b) an officer, employee or agent of the institution acting in the course of the person's employment or agency

in relation to an action taken by the institution or person pursuant to subsection (1).

53. Where a financial institution, or a person who is an officer, employee or agent of the institution, gives the information pursuant to section 52(1) as soon as practicable after forming the belief referred to in that subsection, the institution shall be taken for the purposes of sections 61 and 62 not to have been in possession of that information at any time. Protection for financial institution

54. For the purposes of sections 48 to 53, "financial institution" means Interpretation

(a) a bank licensed under the *Banks Act;* Cap. 322

(b) a building society registered under the *Building Societies Act;* Cap. 377

(c) a credit union registered under the *Co-operative Societies Act.* Cap. 378

(d) a trust company, finance company or deposit taking company, recognised by the Minister responsible for Finance as such.

Order for Disclosure of Income Tax Information

55. (1) The Director of Public Prosecutions may for the purposes of an investigation in relation, to a scheduled offence apply to a Judge in accordance with subsection (2) for an order for disclosure of information under section 56. Application for disclosure of income tax information

(2) An application under subsection (1) shall be made *ex parte* and shall be in writing and be accompanied by an affidavit sworn on the information and belief of the Director of Public Prosecutions or a person specially designated by the Director of Public Prosecutions for that purpose deposing to the following matters, namely

(a) the scheduled offence under investigation;

(b) the person in relation to whom the information or documents referred to in paragraph (c) are required;

(c) the type of information or book, record writing, return or other document in the possession of the Commissioner of Inland Revenue to which access is sought or that is proposed to be examined or communicated; and

(d) the facts relied on to justify the belief, on reasonable grounds, that the person referred to in paragraph (b) has committed or benefited from the commission of an offence referred to in paragraph (a) and that the information or documents referred to in paragraph (c) are likely to be of substantial value, whether alone or together with other material, to the investigation for the purpose of which the application is made.

Order for disclosure

56. (1) Notwithstanding any provision in any other law, where the Judge to whom an application under section 55 is made is satisfied

(a) of the matters referred to in paragraph (d) of subsection (2) of section 55; and

(b) that there are reasonable grounds for believing that it is in the public interest to allow access to the information or

documents to which the application relates, having regard to the benefit likely to accrue to the investigation if the access is obtained,

the Judge may, subject to such conditions as the Judge considers advisable in the public interest, order the Commissioner of Inland Revenue

(c) to allow the Director of Public Prosecutions or any other person named in the order access to all such information and documents and to examine them; or

(d) where the Judge considers it necessary in the circumstances to produce all such information and documents to a person referred to in paragraph (c) above and allow such person to remove the information and documents from the possession of that person,

within such period as the Judge may specify after the expiration of 7 days following the service of the order on the Commissioner of Inland Revenue pursuant to subsection (2).

(2) A copy of an order made by a Judge under this section shall be served on the Commissioner of Inland Revenue in such manner as the Judge directs.

(3) A Judge who makes an order under this section may, on application of the Commissioner of Inland Revenue or of the Director of Public Prosecutions, extend the period within which the order is to be complied with.

Objection to disclosure of information

57. (1) The Commissioner of Inland Revenue may object to the disclosure of any information or document in respect of which an order under section 56 has been made by certifying in writing that the information or document should not be disclosed on the grounds that

(a) the Commissioner of Inland Revenue is prohibited from disclosing the information or document by any bilateral or international treaty, convention or other agreement respecting taxation to which Barbados is a signatory;

(b) a privilege is attached by law to the information or document;

(c) the information or document has been placed in a sealed package pursuant to law or an order of a court of competent jurisdiction;

(d) disclosure of the information or document would not for any other reason be in the public interest.

(2) Where an objection to the disclosure of information or a document is made under subsection (1) the objection may be determined on application by the Commissioner of Inland Revenue or the Director of Public Prosecutions to a Judge in Chambers made not later than 14 days from the date of the objection.

(3) A Judge who is to determine an objection pursuant to subsection (2) may, if the Judge considers it necessary, examine the information or document in relation to which the objection is made and shall grant the objection and order that disclosure of the information or document be refused where the Judge is satisfied as to any of the grounds mentioned in subsection (1).

(4) An appeal lies from a determination under subsection (2) to the Court of Appeal and shall be brought within 14 days from the date of the determination appealed from or within such further time as the Court of Appeal considers appropriate in the circumstances.

Evidential value of copies

58. Where any information or document is examined or provided pursuant to an order under section 56, the person by whom it is examined or to whom it is provided or any officer or person authorised by the Commissioner of Inland Revenue for the purpose, may make or cause to be made one or more copies thereof and any copy purporting to be certified by the Commissioner of Inland Revenue to be a copy made pursuant to this section is evidence of the nature and content of the original information or document and has the same probative force as the original information or document would have had if it had been proved in the ordinary way.

Further disclosure

59. No person to whom information or documents have been disclosed or provided pursuant to an order under section 56 shall further disclose the information or documents except for the purposes of the investigation in relation to which the order was made, and proceedings under this Act.

Access to specified information and documents held by Government departments etc.

Disclosure of information and documents held by Government departments

60. Notwithstanding any provision in this or in any other law the Court may on the application by the Director of Public Prosecutions order the person in charge of any Government department or statutory body to produce or furnish to the Director of Public Prosecutions or any other person specified in the order any document or information which is in his possession or under his control or to which he may reasonably have access (not being a document readily available to the public) which the Court considers relevant to any investigation into, or proceedings relating to a scheduled offence alleged or suspected to have been committed by any person.

Part IV
OFFENCES

Money laundering

61. (1) In this section "transaction" includes the receiving or making of a gift.

(2) A person who, after the commencement of this Act, engages in money laundering commits an indictable offence and is liable, on conviction, to

(a) a fine of $200 000 or imprisonment for a period of 20 years, or both, if he is a natural person; or

(b) a fine of $500 000, if it is a body corporate.

(3) A person shall be taken to engage in money laundering where

(a) the person engages, directly or indirectly, in a transaction that involves money or other property, that is proceeds of crime; or

(b) the person receives, possesses, conceals, disposes of, or brings into Barbados, any money or other property that is proceeds of crime,

and the person knows or ought reasonably to know, that the money or other property is derived, obtained or realised, directly or indirectly from some form of unlawful activity.

Possession of property derived from unlawful activity

62. (1) A person who, after the commencement of this Act, receives, possesses, conceals, disposes of or brings into Barbados any money, or other property that he knows or ought reasonably to know to be proceeds of crime commits an indictable offence and is liable, on conviction, to

(a) a fine of $100 000 or imprisonment for a period of 5 years or both, if he is a natural person; or

(b) a fine of $250 000, if it is a body corporate.

(2) It is a defence to a charge for an offence against this section, if the person satisfies the Court that he did not know or had no reasonable grounds for knowing that the property referred to in the charge was derived or realised, directly or indirectly, from some form of unlawful activity.

Organised fraud

63. (1) A person who engages in organised fraud commits an indictable offence and is liable on conviction, to

(a) a fine of $250 000 or imprisonment for a period of 25 years, or both, if he is a natural person; or

(b) a fine of $750 000, if it is a body corporate.

(2) A person shall be taken to engage in organised fraud if, he engages, after the commencement of this Act, in acts or omissions

(a) that constitute three or more public fraud offences; and

(b) from which the person derives benefit.

(3) Where a person is charged with an offence against subsection (1) in relation to a number of public fraud offences and the jury is not satisfied that the person is guilty of the offence against subsection (1), but is satisfied that the person is guilty of one or more of the public fraud offences, the jury shall acquit the person of the offence against subsection (1) and shall find the person guilty of that public fraud offence or those public fraud offences and that person is punishable accordingly.

(4) In this section "public fraud offence" means an offence under section 58, 59, 64, 65, 66, 68 or 69 of the *Larceny Act*. Cap. 139

Rules for establishing *mens rea*

64. (1) For the purposes of this Act, any conduct engaged in on behalf of a body corporate

(a) by a director, servant or agent of that body corporate within the scope of his actual or apparent authority, or

(b) by any other person at the direction or with the consent or agreement whether expressed or implied, of a director, servant or agent of that body corporate where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent,

shall be deemed to have been engaged in by the body corporate.

(2) Where it is necessary, for the purposes of this Act, to establish the state of mind of a person in relation to conduct deemed by subsection (3) to have been engaged in by that person, it is sufficient to show that a servant or agent of that person, being a servant or agent by whom the conduct was engaged in within the scope of his actual or apparent authority, had that state of mind.

(3) Conduct engaged in on behalf of a person, other than a body corporate,

(a) by a servant or agent of that person within the scope of his actual or apparent authority; or

(b) by any other person at the direction or with the consent or agreement whether expressed or implied, of a servant or agent of the first mentioned person, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent,

shall be deemed, for the purposes of this Act, to have been engaged in by the first mentioned person.

(4) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of that person and that person's reasons for his intention, opinion, belief or purpose.

Part V
MISCELLANEOUS

Amendment of Schedule

65. (1) The Attorney-General may by order published in the *Official Gazette* amend the Schedule.

(2) An order under subsection (1) shall be subject to affirmative resolution.

Standard of proof

66. Save as otherwise provided in this Act, any question of fact to be decided by the Court in proceedings under this Act is to be decided beyond a reasonable doubt.

External forfeiture orders and confiscation orders

67. (1) The Attorney-General may by an order under this section apply to this section to an external forfeiture order or external confiscation order of a description specified in the Minister's order.

(2) In this section

(a) "external forfeiture order" or "external confiscation order", as the case may be, means an order made by a court of a designated country, after the coming into force of an order under this section, for the purpose of recovering proceeds of crime;

(b) "designated country" means a country or territory outside Barbados designated by an order under this section.

(3) Subject to subsection (4), the Court may, on an application by or on behalf of the government of a

designated country, register an external forfeiture order or an external confiscation order made there.

(4) The Court shall not register an external forfeiture order or an external confiscation order unless

(a) the Court is satisfied that at the time of registration the order is in force in the designated country and is not subject to appeal there; and

(b) the Court is satisfied, where the person against whom the order was made did not appear in the proceedings in the designated country, that he received notice of those proceedings in sufficient time to enable him to defend them; and

(c) the Court is of opinion that enforcing the order in Barbados would not be contrary to the interests of justice.

(5) In subsection (4), "appeal" includes proceedings by way of discharging or setting aside a judgment, an application for a new trial or for a stay of execution.

(6) The Court shall cancel the registration of an external forfeiture order or an external confiscation order if it appears to the Court that the order has been satisfied.

(7) In relation to an external forfeiture order or an external confiscation order registered under this section, sections 31 to 38 have effect, subject to such modifications as may be specified in the order under this section, as they have effect in relation to a forfeiture order or a confiscation order.

(8) An order under this section may include such provision

(a) as to evidence or proof of any matter for the purpose of this section; and

(b) as to the circumstances in which proceedings are to be treated for those purposes as instituted or concluded in a designated country,

as the Attorney-General considers expedient.

(9) An order varying or revoking a previous order under this section may contain such incidental, consequential and transitional provisions as the Attorney-General considers expedient.

(10) In the case where the Court is satisfied, on an application by or on behalf of the government of a designated country, that proceedings which might result in an external forfeiture order or an external confiscation order being made against a person have been instituted in that country and have not been concluded, sections 31 and 32 have effect in relation to those proceedings

(a) as they would have effect in relation to proceedings instituted in Barbados against that person for a scheduled offence which have not been concluded; and

(b) as if references to a forfeiture order or a confiscation order were references to an external forfeiture order or an external confiscation order and references to an application by the Director of Public Prosecutions were references to an

application by or on behalf of that government; and

(c) subject to such other modifications as may be specified in an order under this section.

(11) An order under this section is subject to affirmative resolution.

Compensation

68. (1) Where upon the making of an application for a forfeiture order or a confiscation order the Court declines to make such an order, the Court shall on the application of a person who held realisable property order compensation to be paid to him if the requirements of subsection (2) are fulfilled.

(2) The Court shall order compensation to be paid if the Court is satisfied

(a) that there has been some serious default in the investigation or conduct of the matter and that, but for that default, the application would not have been instituted or continued; and

(b) that the applicant has suffered substantial loss in consequence of anything done in relation to the property by or in pursuance of an order of the Court under section 32.

(3) The amount of compensation to be paid under this section is such amount as the Court thinks just in all the circumstances.

(4) Compensation payable under this section shall be paid out of the Consolidated Fund.

Regulations

69. (1) The Attorney-General may make regulations prescribing matters

(a) required or committed by this Act to be prescribed;

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made under subsection (1) shall be subject to affirmative resolution.

Costs

70. (1) Where

(a) a person brings, or appears at, proceedings under this Act before the Court in order

(i) to prevent a forfeiture, confiscation or restraining order from being made against any property of that person, or

(ii) to have property of that person excluded from a forfeiture, confiscation or restraining order;

(b) the person is successful in those proceedings; and

(c) the Court is satisfied that that person was not involved in any way in the commission of the offence in respect of which the forfeiture, confiscation or restraining order was sought or made,

the Court may order the Crown to pay all costs reasonably incurred by that person in connection with the proceedings or such part of those costs as is determined by the Court.

71. The Public Trustee shall not be personally liable for anything done or omitted to be done by him in the course of the performance of his functions under this Act. Non-liability of Public Trustee

72. Nothing in this Act prejudices, limits or restricts Operation of other laws not affected

(a) the operation of any other law which provides for the forfeiture of property or the imposition of penalties or fines; or

(b) the remedies available to the Crown apart from this Act, for the enforcement of its rights and the protection of its interests; or

(c) any power of search or any power to seize or detain property which is exercisable by a police officer apart from this Act.

73. This Act shall come into operation on such date as the Governor-General may by proclamation appoint. Commencement

SCHEDULE

(Section 3)

List of Offences

1. Possession of controlled drugs for the purpose of supply contrary to section 6(3) of the *Drug Abuse (Prevention and Control) Act, 1990.*

2. Trafficking in controlled drugs contrary to section 18 of the *Drug Abuse (Prevention and Control) Act, 1990.*

3. Assisting another to retain the benefit of drug trafficking contrary to section 19 of the *Drug Abuse (Prevention and Control) Act, 1990.*

4. Money laundering (in relation to paragraphs 1, 2, and 3 of this Schedule), contrary to section 61 of this Act.

5. Possession of property derived from unlawful activity (in relation to paragraphs 1, 2 and 3 of this Schedule) contrary to section 62 of this Act.

DRUG ABUSE (PREVENTION AND CONTROL) ACT, 1990 – 14

Arrangement of Sections

Section

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Preliminary

1. Short title
2. Interpretation
3. Meaning of expression "controlled drugs"

Part II

Restrictions Relating to Controlled Drugs

4. Importation and Exportation of controlled drugs
5. Production and Supply of controlled drugs
6. Possession of controlled drugs
7. Handling of controlled drugs
8. Misuse of controlled drugs
9. Possession of pipes, equipment, etc.
10. Acts preparatory to importation supply etc. of controlled drugs
11. Cultivation of Cannabis and Coca Plant
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13. Occupiers etc. of premises etc. to be punishable for permitting certain activities to take place there

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47. Forfeiture of articles etc. used in connection with offence
48. General provisions as to regulations
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51. Repeal of *Cap. 140A*
52. Transitional provisions
53. Commencement

FIRST SCHEDULE
SECOND SCHEDULE
THIRD SCHEDULE
FOURTH SCHEDULE
FIFTH SCHEDULE

I assent
D. A. WILLIAMS
Governor-General's Deputy
16 June, 1990.

1990 - 14

An Act to make new provision with respect to the control of narcotic drugs, psychotropic substances and other substances known to be used in the manufacture of narcotic drugs and psychotropic substances; to create new offences with respect to drug trafficking and for purposes connected therewith.

(By Proclamation) Commencement

ENACTED by the Parliament of Barbados as follows:

Part I

Preliminary

1. This Act may be cited as the *Drug Abuse (Prevention and Control) Act*, 1990. Short title

Interpretation

2. (1) In this Act

"benefit" includes any property, service or advantage, whether direct or indirect, and "to benefit" has a corresponding meaning;

"cannabis" means any plant of the genus Cannabis from which the resin has not been separated and includes any part of that plant by whatever name it may be designated;

"cannabis resin" means the separated resin, whether crude or purified, obtained from any plant of the genus Cannabis;

"child" means a person under the age of fourteen years;

"coca leaf" means the leaf of any plant of the genus Erythroxylon from whose leaves cocaine can be extracted either directly or by chemical transformation;

"coca plant" means any plant of the genus Erythroxylon from which cocaine can be extracted;

Cap. 40A

"Committee" means the Drug Formulary Committee established under the *Drug Service Act;*

"Comptroller" means the Comptroller of Customs;

"controlled drug" has the meaning assigned by section 3;

"conveyance" includes any means of transport by which goods may be brought into or taken from Barbados;

"Convention" means a convention mentioned in the Fifth Schedule, and any convention or final protocol amending, supplementing or in substitution for the same; Fifth Schedule

"corresponding law" has the meaning assigned by section 50;

"dentist" means a dental practitioner registered in the Dental Register under the *Dental Registration Act;* Cap. 367

"diversion certificate" means a certificate issued by a competent authority of a country through which a controlled drug passes in transit authorising the diversion of that drug to a country other than that specified as the country of ultimate destination in the export authorisation and containing all the particulars required to be included in the export authorisation together with the name of the country from which the drug was originally exported;

"doctor" means a medical practitioner registered in the Medical Register under the *Medical Registration Act;* Cap. 371

"drug trafficking", "traffic" and "trafficking" have the meaning assigned by section 18(1);

"export" means to take or to cause to be taken out of Barbados by air or water;

"export authorisation" means an authorisation issued by a competent authority in a country from which a controlled drug is exported containing full particulars of that drug and the quantity authorised to be exported together with the names and addresses of the exporter and the person to whom it is to be sent and stating the country to which and the period within it is to be exported;

"import" means to bring or to cause to be brought into Barbados by air or water;

"in transit" means taken or sent from any country and brought into Barbados by sea or air (whether or not landed or trans-shipped in Barbados) for the sole purpose of being carried to another country either by the same or another conveyance;

"listed substance" means a substance listed in Part III of the First Schedule which is used in the manufacture of certain controlled drugs whether as a solvent, reagent or catalyst and is critical to the creation of certain controlled drugs; First Schedule

"Minister" means the Minister responsible for Health;

"narcotic drug" means any substance listed in Part I of the First Schedule or any thing that contains any narcotic drug; First Schedule

"opium poppy" means a plant of the species *Papaver somniferum L* or the species *Papaver setigerum D. C* and any plant from which morphine may be produced;

"pharmacist" means a person whose name appears in the Register of Pharmacists under the *Pharmacy Act;* Cap. 372D

"practitioner" (except when preceded by the word "dental", "medical" or "veterinary") means a dentist, doctor or veterinary practitioner;

"prepared opium" means opium prepared for smoking and includes dross and any other residues remaining after opium is smoked;

"prescribed" means prescribed by regulations made by the Minister under this Act;

"proceeds" in relation to an act or activity, means property obtained directly from that act or activity;

"produce" where the reference is to producing a controlled drug, means producing it by manufacture, cultivation or any other method and "production" has a corresponding meaning;

First Schedule

"psychotropic substance" means any substance listed in Part II of the First Schedule or anything that contains any psychotropic substance;

"removal licence" means a licence granted by the Minister under section 15;

"supplying" includes distributing;

"trafficable quantity" means the quantity of controlled drug listed in column 2 of the Second Schedule or any quantity in excess thereof; Second Schedule

"veterinary practitioner" means a person registered in the Register of Veterinary Surgeons under the *Veterinary Surgeons Act;* Cap. 374

"young person" means a person who is fourteen years of age or upwards and under the age of eighteen years.

(2) References in this Act to misusing a drug are references to using it otherwise than as authorised by or under this Act by taking it; and the reference in the foregoing provision to the taking of a drug is a reference to the taking of it by a human being by smoking, inhaling, ingesting or injecting it or any other form of self administration, whether or not involving assistance by another.

(3) For the purposes of this Act, the things which a person has in his possession shall be taken to

include any thing subject to his control which is in the custody of another.

(4) A controlled drug shall be treated for the purposes of this Act as intended for supply notwithstanding that, before it is supplied

(a) it is to be, or is being or may be mixed with another controlled drug or some other substance; or

(b) it is or may undergo a process of production or is undergoing such a process.

Controlled Drugs

Meaning of expression controlled drugs

3. (1) In this Act, the expression "controlled drug" means

(i) any narcotic drug for the time being listed in Part I of the First Schedule; or

First Schedule

(ii) any psychotropic substance for the time being listed in Part II of the First Schedule; or

(iii) any listed substance for the time being listed in Part III of the First Schedule

and the provisions of Part IV of that Schedule shall have effect with respect to the meaning of expressions used in that Schedule.

(2) The Minister may by order make such amendments to the First Schedule as may be requisite for the purpose of adding any drug, substance or product to, or removing any drug, substance or product from any of Parts I to III of that Schedule.

(3) The Minister shall not make any order under this section except after consultation with the Committee.

(4) An order made in pursuance of this section shall be subject to affirmative resolution.

Part II

Restrictions Relating to Controlled Drugs etc.

Importation and exportation of controlled drugs

4. (1) Subject to subsection (2), it shall not be lawful for a person to

(a) import a controlled drug; or

(b) export a controlled drug.

(2) Subsection (1) does not apply

(a) to the importation or exportation of a controlled drug which is for the time being excepted from paragraph (a) or, as the case may be, paragraph (b) of subsection (1) by regulations under section 12; or

(b) to the importation or exportation of a controlled drug under and in accordance with the terms of an authorisation granted by the Minister and in compliance with any conditions attached thereto; or

(c) to the importation or exportation of a controlled drug which is in transit.

(3) Subject to section 39, it is an offence for a person to import or export a controlled drug in contravention of subsection (1).

Production and supply of controlled drugs

5. (1) Subject to any regulations under section 12, it shall not be lawful for a person

(a) to produce a controlled drug; or

(b) to supply or offer to supply a controlled drug to another.

(2) Subject to section 39, it is an offence for a person

(a) to produce a controlled drug in contravention of subsection (1); or

(b) to be concerned in the production of such a drug in contravention of that subsection by another.

(3) Subject to section 39, it is an offence for a person

(a) to supply or offer to supply a controlled drug to another in contravention of subsection (1); or

(b) to be concerned in the supplying of such a drug to another in contravention of that subsection; or

(c) to be concerned in the making to another in contravention of that subsection of an offer to supply such a drug.

Possession of controlled drugs

6. (1) Subject to any regulations under section 12, it shall not be lawful for a person to have a controlled drug in his possession.

(2) Subject to section 39, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1).

(3) Subject to section 39, it is an offence for a person to have a controlled drug in his possession, whether lawfully or not, which is intended, whether by him or some other person, for supply in contravention of section 5(1).

(4) Subject to subsection (1), a person found in possession of a trafficable quantity of a controlled drug shall be deemed to be in possession of such controlled drug for the purpose of supplying it to another in contravention of section 5(1) unless the contrary is proved, the burden of proof being on the accused.

Handling of controlled drugs

7. (1) A person commits an offence if he knowingly handles a controlled drug which is intended, whether by him or some other person, for supply in contravention of section 5(1).

(2) A person handles a controlled drug for the purposes of this section if

(a) he is in any way concerned in carrying, removing, harbouring, keeping or concealing the controlled drug or

anything containing the controlled drug; or

(b) he deals in any manner with the controlled drug.

Misuse of controlled drugs

8. (1) It shall not be lawful for a person to misuse a controlled drug.

(2) Subject to section 39, it is an offence for a person to misuse a controlled drug in contravention of subsection (1).

Possession of pipes, equipment etc.

9. (1) It shall not be lawful for any person to have in his possession any pipe, equipment or apparatus fit and intended for use in connection with the misuse of a controlled drug or the preparation of any such drug for misuse.

(2) Subject to section 39, it is an offence for a person to have in his possession a pipe, equipment or apparatus in contravention of subsection (1).

Acts preparatory to the importation, supply etc. of controlled drugs

10. (1) It shall not be lawful for any person to do any act preparatory to the commission of an offence under section 4(3) or 5(3).

(2) Subject to section 39, it is an offence for a person to do an act preparatory to the commission of an offence under section 4(3) or 5(3).

Cultivation of cannabis and coca plant

11. (1) Subject to any regulations under section 12, it shall not be lawful for a person to cultivate any plant of the genus Cannabis, any coca plant or opium poppy.

(2) Subject to section 39, it is an offence to cultivate any such plant in contravention of subsection (1).

Authorisation of activities otherwise unlawful under foregoing provisions

12. (1) The Minister may by regulations

(a) except from section 4(1)(a) or (b), 5(1)(a) or (b) or 6(1) such controlled drugs as may be specified in the regulations; and

(b) make such other provision as he thinks fit for the purpose of making it lawful for persons to do things which under any of the following provisions of this Act, that is to say sections 5(1), 6(1) and 11(1) it would otherwise be unlawful for them to do.

(2) Without prejudice to the generality of paragraph (b) of subsection (1), regulations under that subsection authorising the doing of any such thing as is mentioned in that paragraph may in particular provide for the doing of that thing to be lawful

(a) if it is done under and in accordance with the terms of a licence or other authority issued by the Minister and in compliance with any conditions attached thereto; or

(b) if it is done in compliance with such conditions as may be prescribed.

(3) Subject to subsection (4), the Minister shall so exercise his power to make regulations under subsection (1) as to secure

(a) that it is not unlawful under section 5(1) for a practitioner, acting in his capacity as such, to prescribe, administer, manufacture, compound or supply a controlled drug, or for a pharmacist, acting in his capacity as such, to manufacture, compound or supply a controlled drug; and

(b) that it is not unlawful under section 6(1) for a practitioner or pharmacist to have a controlled drug in his possession for the purpose of acting in his capacity as such.

(4) If in the case of any controlled drug the Minister is of the opinion that it is in the public interest

(a) for production, supply and possession of that drug to be either wholly unlawful or unlawful except for purposes of research or other special purposes; or

(b) for it to be unlawful for practitioners or pharmacists to do in relation to that drug any of the things mentioned in subsection (3) except under a licence or other authority issued by the Minister;

he may by order designate that drug as a drug to which this subsection applies; and while there is in force an order under this subsection designating a controlled drug as one to which this subsection applies, subsection (3) shall not apply as regards that drug.

(5) An order made under subsection (4) shall be subject to negative resolution.

(6) The Minister shall not make any order under subsection (4) except after consultation with or on the recommendation of the Committee.

(7) References in this section to a person's "doing" things include references to having things in his possession.

Occupiers etc. of premises etc. to be punishable for permitting certain activities to take place there

13. (1) A person is guilty of an offence if, being the owner, occupier or person in charge of or concerned in the management of any premises or place, he knowingly permits or suffers any of the following activities to take place on those premises or at that place, that is to say

(a) producing or attempting to produce a controlled drug in contravention of section 5(1);

(b) supplying or attempting to supply a controlled drug to another in contravention of section 5(1) or offering to supply a controlled drug to another in contravention of section 5(1);

(c) handling a controlled drug in contravention of section 7(1);

(d) misusing any controlled drug or preparing any such drug for misuse.

(2) In this section "premises" includes a vessel, aircraft, vehicle, building, structure and enclosure, whether movable or not.

Part III

Controlled Drugs in transit

Controlled drugs in transit

14. (1) No controlled drug may be brought into Barbados in transit unless

(a) in the course of transit from a country from which it may lawfully be exported to another country into which it may lawfully be imported; and

(b) except where it comes from a country not a party to a Convention, and it is accompanied by a valid and subsisting export authorisation or diversion certificate, as the case may be.

(2) Where a controlled drug in transit is accompanied by an export authorisation or diversion certificate and the Comptroller has reasonable grounds for believing that the authorisation or certificate is false or has been obtained by fraud or wilful misrepresentation of a material particular, he may seize that drug and detain it until he is satisfied that the authorisation or certificate is valid or has not been obtained by fraud or misrepresentation of a material particular.

(3) Where a controlled drug in transit is not accompanied by an export authorisation or diversion certificate because it comes from a country not a party to a Convention, and the Comptroller has reasonable grounds for believing that that drug is being conveyed in an unlawful manner or for an unlawful purpose or is in the course of transit for the purpose of being imported into another country contrary to the laws of that country, he may seize and detain that drug.

(4) Where a controlled drug brought into Barbados in transit is landed or trans-shipped in Barbados, it shall remain under the control of the Comptroller and shall be moved only under the authority and in accordance with the conditions of a removal licence.

(5) Nothing in this section applies to a controlled drug in transit by post or in transit by air if the aircraft passes over Barbados without landing or to such quantities of controlled drugs as may *bona fide* reasonably form part of the medical stores of any ship or aircraft.

(6) A person who contravenes any of the provisions of subsection (1) is guilty of an offence under this Act.

Removal licences

15. (1) No person may

(a) remove a controlled drug from the conveyance by which it is brought into Barbados in transit; or

(b) in any way move a controlled drug in Barbados at any time after it is removed from the conveyance by which it was brought into Barbados in transit,

except under the authority of a licence in the prescribed form granted by the Minister.

(2) The Minister shall not issue a removal licence unless there is produced to him a valid and subsisting export authorisation or diversion certificate

relating to the controlled drug in respect of which the removal licence is sought.

(3) Subsection (2) does not apply where the drug in respect of which a removal licence is sought comes from a country not a party to a Convention.

(4) This section does not apply to controlled drugs in transit by post.

(5) A person who contravenes any of the provisions of subsection (1) is guilty of an offence under this Act.

Tampering with controlled drugs in transit

16. A person who

(a) causes any controlled drug in transit to be subjected to any process which would alter its nature; or

(b) wilfully opens or breaks any package containing a controlled drug in transit without the instructions or otherwise than in accordance with the directions of the Minister,

is guilty of an offence under this Act.

Diversion of controlled drugs

17. (1) No person may, except under the authority of a diversion certificate in the prescribed form issued by the Minister, cause or procure any controlled drug brought into Barbados in transit to be diverted to any destination other than that to which it was originally consigned.

(2) In the case of a controlled drug in transit accompanied by an export authorisation or diversion certificate issued by a competent authority in a country outside Barbados, the country stated in that authorisation or certificate to be the country of destination shall be deemed to be the country of the original destination of that drug.

(3) The Minister may not issue a diversion certificate under subsection (1) unless there is produced to him a valid and subsisting import certificate issued by the competent authority in the country to which it is proposed to divert the drug or, if that country is not a party to a Convention, he is satisfied that the drug is to be sent in a lawful manner and for a proper purpose.

(4) A diversion certificate shall be issued in duplicate; one copy thereof shall accompany the controlled drug when it is exported from Barbados and the other copy shall be sent by or on behalf of the Minister direct to the proper authority in the country to which the drug is diverted.

(5) Upon the issue of a diversion certificate, the export authorisation or diversion certificate, if any, accompanying the controlled drug on its arrival in Barbados shall be detained by the Minister and returned to the authority issuing it together with a notification of the name of the country to which the drug is diverted.

(6) A person who contravenes any of the provisions of subsection (1) is guilty of an offence under this Act.

Part IV

Drug Trafficking and related offences

Drug Trafficking

18. (1) For the purposes of this Act, the expression "traffic", "trafficking" or "drug trafficking" in relation to a

controlled drug means doing or being concerned, whether in Barbados or elsewhere, in any of the following:

(a) importing or exporting a trafficable quantity of any controlled drug where importation or exportation contravenes section 4(1) or a corresponding law;

(b) supplying a trafficable quantity of any controlled drug where supply contravenes section 5(1) or a corresponding law;

(c) possessing a trafficable quantity of any controlled drug where possession of the drug contravenes section 6(1) or a corresponding law;

and includes a person doing the following whether in Barbados or elsewhere, that is,

(d) organising, managing or financing any of the activities listed in (a) to (c) above;

(e) entering into or being otherwise concerned in an arrangement whereby

(i) the retention or control by or on behalf of another person of the other person's proceeds of drug trafficking is facilitated; or

(ii) the proceeds of drug trafficking by another person are used to secure that funds are placed at the other person's disposal or are used for the other person's benefit to acquire property by way of investment.

(2) Save under and in accordance with this Act or any regulations under section 12, no person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Barbados

(a) traffic in a controlled drug;

(b) offer to traffic in a controlled drug or in a substance he believes to be a controlled drug;

(c) do or offer to do an act preparatory to or for the purpose of trafficking in a controlled drug or in a substance he believes to be a controlled drug.

(3) Subsection (2) shall apply whether or not the controlled drug is in Barbados or is to be imported into Barbados or is ascertained or in existence.

(4) Any person who contravenes any of the provisions of subsection (2) is guilty of an offence under this Act.

Assisting another to retain the benefit of drug trafficking

19. (1) Subject to subsection (2), if a person enters into or is otherwise concerned in an arrangement whereby

(a) the retention or control by or on behalf of another ("X") of X's benefits of drug trafficking is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise); or

(b) X's benefits of drug trafficking

(i) are used to secure that funds are placed at X's disposal, or

(ii) are used for X's benefit to acquire property by way of investment,

knowing or suspecting that X is a person who carries on or has carried on drug trafficking, that person is guilty of an indictable offence under this Act.

(2) Where a person discloses to a member of the Police Force a suspicion or belief that any funds or investments are derived from or used in connection with drug trafficking or any matter on which a suspicion or belief is based

(a) the disclosure is not a breach of any restriction upon the disclosure of information imposed by contract

(b) if he does any act in contravention of subsection (1) and the disclosure relates to the arrangement concerned, he does not commit an offence against this section if the disclosure is made in accordance with this paragraph, that is to say,

(i) it is made before he does the act concerned, being an act done with the consent of the member of the Police Force; or

(ii) it is made after he does the act, but is made on his own initiative and as soon as it is reasonable for him to make it.

(3) In proceedings against a person for an offence against this section, it is a defence for him to prove

(a) that he did not know or suspect that the arrangement related to any person's benefits of drug trafficking; or

(b) that he did not know or suspect or have grounds for suspecting that by the arrangement the retention or control of any property by or on behalf of X was or might be facilitated or, as the case may be, that by the arrangement any property was or might be used as mentioned in subsection (1); or

(c) that

(i) he intended to disclose to a member of the Police Force such a suspicion belief or matter as is mentioned in subsection (2) in relation to the arrangement; but

(ii) there is reasonable excuse for his failure to make disclosure in accordance with paragraph (b) of subsection (2).

Supplying or offering to supply a purported controlled drug

20. (1) No person shall

(a) supply any substance represented or held out by him to be a controlled drug, but which is not a controlled drug;

(b) offer to supply any substance represented or held out by him to be a controlled drug but which is not in fact a controlled drug; or

(c) do or offer to do an act preparatory to the supply of any substance represented or held out by him to be a controlled drug, but which is not a controlled drug.

(2) Subsection (1) shall apply whether or not the substance represented or held out to be a controlled drug is in Barbados or is to be imported into Barbados or is ascertained, appropriated or in existence.

(3) Subject to section 39, any person who contravenes any of the provisions of subsection (1) is guilty of an offence under this Act.

(4) No prosecution for an offence under this section shall be instituted without the consent in writing of the Director of Public Prosecutions, but this subsection shall not prevent the arrest or the issue of a warrant for the arrest of a person for any such offence.

Part V

Offences in respect of Children and Young persons

Possession of a controlled drug on or near school premises

21. (1) Subject to any regulations under section 12, it shall not be lawful for a person to have a controlled drug in his possession in or within a radius of one hundred yards of any school premises.

(2) Subject to section 39, it is an offence for a person to have a controlled drug in his possession in contravention to subsection (1).

(3) Subject to section 39, it is an offence for a person to have a controlled drug in his possession in or within a radius of one hundred yards of any school premises, which is intended, whether by him or some other person for supply in contravention of section 5(1).

(4) For purposes of subsection (3), a person found in possession of a controlled drug in contravention of subsection (1) is deemed to have the controlled drug for the purpose of supplying same to another unless the contrary is proved; the burden of proof being on the accused.

(5) In this section, "school premises" means any nursery school, primary or secondary school, technical institution, training centre, teachers' college, community college, university or any other educational institution for children or young persons and includes buildings, playing fields or other premises established or maintained by such institutions for the benefit of its pupils or students whether or not such buildings, playing fields or other premises are within the curtilage of the institution.

Employment, hire or use of children and young persons in drug trade

22. (1) It shall be unlawful for any person to knowingly and intentionally

(a) employ, hire, use, persuade, induce, entice or coerce a child or young person to contravene any provision of this Act;

(b) employ, hire, use persuade, induce, entice, or coerce a child or young person to assist in avoiding detection or apprehension for any offence under this Act;

(c) receive a controlled drug from a child or young person in contravention of any provision of this Act.

(2) Subject to section 39, any person who contravenes subsection (1) is guilty of an offence under this Act.

Supply of controlled drug to child or young person

23. Subject to section 39, any person who contravenes section 22(1) by knowingly supplying a controlled drug to a child or young person in contravention of section 5(1) is guilty of an offence under this Act.

Part VI

Powers of Minister for Preventing Misuse of Controlled Drugs

Power to make regulations for preventing misuse of controlled drugs

24. (1) Subject to the provisions of this Act, the Minister may by regulations make such provision as appears to him necessary or expedient for preventing the misuse of controlled drugs.

(2) Without prejudice to the generality of subsection (1), regulations under this section may in particular make provision

(a) for regulating the importation of such controlled drugs as may be prescribed and for requiring precautions to be taken for the safe custody of controlled drugs;

(b) for imposing :ments as to the documentation of transactions involving controlled drugs, and for requiring copies of documents relating to such transactions to be furnished to the prescribed authority;

(c) for requiring the keeping of records and the furnishing of information with respect to controlled drugs in such circumstances and in such manner as may be prescribed;

(d) for the inspection of any precautions taken or records kept in pursuance of regulations under this section;

(e) as to the packaging and labelling of controlled drugs;

(f) for regulating the transport of controlled drugs and the methods used for destroying or otherwise disposing of such drugs when no longer required;

(g) for regulating the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescriptions, and for requiring persons issuing or dispensing prescriptions containing such drugs to furnish to the prescribed authority such information relating to those prescriptions as may be prescribed;

(h) for requiring any doctor who attends a person whom he considers, or has reasonable grounds to suspect, is addicted (within the meaning of the

regulations) to controlled drugs of any description to furnish to the prescribed authority such particulars with respect to that person as may be prescribed;

(i) for prohibiting any doctor from administering, supplying and authorising the administration and supply to persons so addicted, and from prescribing for such persons, such controlled drugs as may be prescribed, except under and in accordance with the terms of a licence issued by the Minister in pursuance of the regulations.

(3) All records, reports, particulars and other information supplied in pursuance of the provisions of regulations made under this section shall be treated as confidential information by the prescribed authority and shall be used only for prescribed purposes under the direction of the Minister.

Power to direct special precautions for safe custody of controlled drugs to be taken at certain premises

25. (1) Without prejudice to any requirement imposed by regulations made in pursuance of section 24(2)(a), the Minister may by notice in writing served on the occupier of any premises on which controlled drugs are or are proposed to be kept give directions as to the taking of precautions or further precautions for the safe custody of any controlled drugs of a description specified in the notice which are kept on those premises.

(2) It is an offence to contravene any directions given under subsection (1).

Directions prohibiting, prescribing, supply etc. of controlled drugs by practitioners etc. convicted of certain offences

26. (1) Where a person who is a practitioner or pharmacist has after the coming into operation of this subsection been convicted of an offence under this Act, the Minister may give a direction under subsection (2) in respect of that person.

(2) A direction under this subsection in respect of a person shall

(a) if that person is a practitioner, be a direction prohibiting him from having in his possession, prescribing, administering, manufacturing, compounding and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction;

(b) if that person is a pharmacist, be a direction prohibiting him from having in his possession, manufacturing, compounding and supplying and from supervising and controlling the manufacture, compounding and supply of such controlled drugs as may be specified in the direction.

(3) The Minister may at any time give a direction cancelling or suspended any direction given by him under subsection (2), or cancelling any direction of his under this subsection by which a direction so given is suspended.

(4) The Minister shall cause a copy of any direction given by him under this section to be served on

the person to whom it applies, and shall cause notice of any such direction to be published in the *Gazette*.

(5) A direction under this section shall take effect when a copy of it is served on the person to whom it applies.

(6) It is an offence to contravene a direction given under subsection (2).

Directions prohibiting, prescribing, supply etc. of controlled drugs by practitioners in other cases

27. (1) In the event of a contravention by a doctor of regulations made in pursuance of paragraph (h) or (i) of section 24(2), or of the terms of a licence issued under regulations made in pursuance of the said paragraph (i), the Minister may, subject to and in accordance with section 28, give a direction in respect of the doctor concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(2) If the Minister is of the opinion that a practitioner is or has after the coming into operation of this subsection been prescribing, administering or supplying or authorising the administration or supply of any controlled drugs in an irresponsible manner, the Minister may, subject to and in accordance with section 28, give a direction in respect of the practitioner concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(3) A contravention such as is mentioned in subsection (1) does not as such constitute an offence, but it is an offence to contravene a direction given under subsection (1) or (2).

Investigation where grounds for a direction under section 27 are considered to exist

28. (1) If the Minister considers that there are grounds for giving a direction under subsection (1) of section 27 on account of such a contravention by a doctor as is there mentioned, or for giving a direction under subsection (2) of that section on account of such conduct by a practitioner as is mentioned in the said subsection (2), he shall refer the case to a tribunal constituted for the purpose in accordance with the following provisions of this Act; and it shall be the duty of the tribunal to consider the case and report on it to the Minister.

(2) In this Act "the respondent", in relation to a reference under this section, means the doctor or other practitioner in respect of whom the reference is made.

(3) Where

(a) in the case of a reference relating to the giving of a direction under the said subsection (1), the tribunal finds that there has been no such contravention as aforesaid by the respondent or finds that there has been such a contravention but does not recommend the giving of a direction under that subsection in respect of the respondent; or

(b) in the case of a reference relating to the giving of a direction under the said subsection (2), the tribunal finds that there has been no such conduct as aforesaid by the respondent or finds that there has been such conduct by the respondent but does not recommend the giving of a direction under the said subsection (2) in respect of him,

the Minister shall cause notice to that effect to be served on the respondent.

(4) Where the tribunal finds

(a) in the case of a reference relating to the giving of a direction under the said subsection (1), that there has been such a contravention as aforesaid by the respondent; or

(b) in the case of a reference relating to the giving of a direction under the said subsection (2), that there has been such conduct as aforesaid by the respondent,

and considers that a direction under the subsection in question should be given in respect of him, the tribunal shall include in its report a recommendation to that effect indicating the controlled drugs which it considers should be specified in the direction or indicating that the direction should specify all controlled drugs.

(5) Where the tribunal makes such a recommendation as aforesaid, the Minister, after considering the recommendation of the tribunal, may

(a) give in respect of the respondent a direction under subsection (1) or, as the case may be, subsection (2) of section 27 specifying all or any of the controlled drugs indicated in the recommendation of the tribunal; or

(b) order that no further proceedings shall be taken in the case.

Provisions supplementary to section 28 Third Schedule

29. (1) The provisions of the Third Schedule shall have effect with respect to the constitution and procedure of the tribunal appointed for the purposes of section 28, and with respect to the other matters there mentioned.

(2) The Minister shall cause a copy of any order or direction made or given by him in pursuance of section 28(5) to be served on the person to whom it applies and shall cause notice of any such direction to be published in the *Gazette*.

(3) The Minister may at any time give a direction cancelling or suspending any direction given by him in pursuance of section 28(5) or cancelling any directions of his under this subsection by which a direction so given is suspended and shall cause a copy of any direction of his under this subsection to be served on the person to whom it applies and notice of it to be published as aforesaid.

(4) A direction given under section 27(1) or (2) or under subsection (3) shall take effect when a copy of it is served on the person to whom it applies.

Power to obtain information from practitioners, pharmacists etc. in certain circumstances

30. (1) If it appears to the Minister that there exists a problem caused by the extensive misuse of controlled drugs he may by notice in writing served on any practitioner or pharmacist require him to furnish to the Minister, with respect to any controlled drugs specified in the notice and as regards any period so specified, such particulars as may be so specified relating to the quantities in which and the number and frequency of the occasions on which those drugs

(a) in the case of a practitioner, were prescribed, administered or supplied by him; or

(b) in the case of a pharmacist, were supplied by him.

(2) A notice under this section may require any such particulars to be furnished in such manner and within such time as may be specified in the notice and, if served on a pharmacist may require him to furnish the names and addresses of practitioners on whose prescriptions any controlled drugs to which the notice relates were supplied, but shall not require any person to furnish any particulars relating to the identity of any person for or to whom any controlled drug has been prescribed, administered or supplied.

(3) A person is guilty of a summary offence if without reasonable excuse (proof of which shall lie on him) he fails to comply with any requirement to which he is subject by virtue of subsection (1).

(4) A person is guilty of an offence if in purported compliance with a requirement imposed under this section he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.

Part VII

Miscellaneous Offences and Powers

Miscellaneous offences

31. (1) It is an offence for a person to contravene any regulations made under this Act other than regulations made in pursuance of section 24 (2) (h) or (i).

(2) It is an offence for a person to contravene a condition or other term of an authorisation issued under section 4 or of a licence or other authority issued under regulations made under this Act, not being a licence issued under regulations made in pursuance of section 24(2) (i).

(3) A person is guilty of an offence if, in purported compliance with any obligation to give information to which he is subject under or by virtue of regulations made under this Act, he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.

(4) A person is guilty of an offence if, for the purpose of obtaining, whether for himself or another, the issue or renewal of a licence or other authority under this Act or under any regulations made under this Act, he

(a) makes any statement or gives any information which he knows to be false in a material particular or recklessly gives any information which is so false; or

(b) produces or otherwise makes use of any book, record or other document which to his knowledge contains any statement or information which he knows to be false in a material particular.

Assisting in or inducing outside Barbados commission of an offence punishable under a corresponding law

32. A person is guilty of an offence if in Barbados he assists in or induces the commission in any place outside Barbados of an offence punishable under the provisions of a corresponding law in force in that place.

Offences by corporations

33. Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against accordingly.

Further power to make regulations

34. The Minister may by regulations make provision

(a) for excluding in such cases as may be prescribed the application of any provision of this Act which creates an offence;

(b) for applying any of the provisions of sections 28 and 29 and the Third Schedule, with such modifications (if any) as may be prescribed

Third Schedule

(i) in relation to any proposal by the Minister to give a direction under section 26(2); or

(ii) for such purposes of regulations under this Act as may be prescribed;

(c) for the application of any of the provisions of this Act or regulations or orders thereunder to servants or agents of the Crown, subject to such exceptions, adaptations and modifications as may be prescribed;

(d) for the establishment, regulation and administration of treatment and rehabilitation centres for the detention, education and treatment of persons addicted to controlled drugs;

(e) generally for the better carrying out of the provisions of this Act and for prescribing anything which is to be or may be prescribed.

Part VIII

Law Enforcement and Punishment of Offences

Powers to search and obtain evidence

35. (1) A member of the Police Force or other person authorised in that behalf by a general or special order of the Minister shall, for the purposes of the execution of this Act, have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drugs and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs.

(2) If a magistrate or justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that there is in any place or premises an article liable to seizure, he may grant a search warrant authorising any member of the Police Force named in the warrant, at any time within one month from the date of the warrant, to enter, if need be by force, the place or premises named in the warrant and to search the place or premises and to seize and detain anything which appears to the member of the Police Force to be an article liable to seizure.

(3) A person is guilty of an offence if he

(a) intentionally obstructs a person in the exercise of his powers under this section; or

(b) conceals from a person acting in the exercise of his powers under subsection (1) any such books, documents, stocks or drugs as are mentioned in that subsection; or

(c) without reasonable excuse (proof of which shall lie on him) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of his powers under that subsection.

(4) In this section

"articles liable to seizure" means

(a) any controlled drug in respect of which an offence is being or has been committed;

(b) any money or thing liable to forfeiture under this Act;

(c) any thing which is or contains evidence of an offence under this Act or a corresponding law.

(5) Any controlled drug in respect of which an offence under this Act is being or has been committed shall, with effect from the seizure thereof, be forfeited to the Crown.

(6) Nothing in this section shall prejudice any power of search or any power to seize or detain property which is exercisable by a member of the Police Force apart from this section.

Powers of arrest

36. (1) A member of the police force may arrest without warrant a person who has committed, or whom the member with reasonable cause, suspects to have committed, an offence under the Act.

(2) This section shall not prejudice any power of arrest conferred on a member of the police force by any other law.

Prosecution and punishment of offences
Cap. 116

37. (1) Notwithstanding section 115 of the *Magistrates Jurisdiction and Procedure Act*, a magistrate may try an information or complaint for an offence under this Act if the information was laid or complaint made at any time within twelve months from the time when the offence was committed.

(2) Where a person is charged with an offence under this Act (not being an offence under section 19 or section 30(3)), section 46(1) of the *Magistrates Jurisdiction and Procedure Act* applies as if the offence were an offence specified in the Second Schedule to that Act and the provisions of section 46(2) of that Act shall not have effect to limit the punishment which may be imposed under this section upon a person who is summarily convicted of that offence.
Cap. 116

(3) Except where expressly otherwise provided, the Fourth Schedule shall have effect in accordance with subsection (4) with respect to the way in which offences under this Act are punishable on conviction.
Fourth Schedule

(4) In relation to an offence under a provision of this Act specified in the first column of the Fourth

Schedule (the general nature of the offence being described in the second column)

(a) the third column shows whether the offence is punishable on summary conviction or on indictment or in either way;

(b) the fourth column shows respectively the punishment which may be imposed on a person convicted of the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment).

(5) Without prejudice to the provisions of this section, where a person is convicted of an offence under section 5, 6, 7 or 8 and it appears to the court on the evidence of a doctor that he is addicted to or dependent upon, or, in the opinion of the court, is likely to become addicted to or dependent upon, any controlled drug, the court may, in addition to or in lieu of any sentence which may be imposed in pursuance of the preceding provisions of this section, order him to be detained for the purpose of care and treatment for such period, not exceeding six months, as the court may determine in a treatment and rehabilitation centre established by regulations made under section 34, and if, at the termination of such period, the court is satisfied, on the recommendation of a doctor, that the convicted person would benefit from a further period of detention, it may order the convicted person to be detained for the purpose of care and treatment for such further period not exceeding six months as it thinks fit.

(6) For the purposes of any Act relating to appeals an order made under subsection (5), shall be a sentence imposed by the court.

Punishment for attempts, conspiracy etc. to commit offences

38. (1) Notwithstanding anything in any other law contained, a person who attempts to commit an offence under this Act or solicits, incites, procures or conspires with another to commit an offence under this Act is guilty of an offence.

Fourth Schedule

(2) An offence under this section shall be punishable on summary conviction, on indictment or in either way according to whether, under the Fourth Schedule, the substantive offence is punishable on summary conviction, on indictment or in either way; and the punishment which may be imposed on a person convicted of an offence under this section is the same as that which, under that Schedule, may be imposed on a person convicted of the substantive offence.

(3) In subsection 9(2) "the substantive offence" means the offence under this Act to which the attempt or, as the case may be, the solicitation, incitement, procurement or conspiracy mentioned in subsection (1) was directed.

(4) For the purposes of subsection (1) a conspiracy may occur, where two or more persons agree or act together with a common purpose of committing or abetting an offence against this Act or any regulations made hereunder whether with or without any previous consent or deliberation.

(5) A person within the jurisdiction of the court may be guilty of conspiracy by agreeing with another person who is beyond the jurisdiction for the commission or abetment of any offence under this Act or the regulations, to be committed by them or either of them, or by any other person, either within or beyond the jurisdiction.

(6) For the purpose of subsection (5), in relation to an offence to be committed beyond the jurisdiction, "offence" means any act which, if done within the jurisdiction would be an offence under this Act or the regulations.

Proof of lack of knowledge etc. to be a defence in proceedings for certain offences

39. (1) This section applies to offences under any of the following provisions of this Act, that is to say sections 4(3), 5(2) and (3), 6(2) and (3), 8(2), 9(2), 10(2), 11(2), 20(3), 21(2) and (3), 22(2) and 23.

(2) Subject to subsection (3), in any proceedings for an offence to which this section applies it shall be a defence for the accused to prove that he neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution which it is necessary for the prosecution to prove if he is to be convicted of the offence charged.

(3) Where in any proceedings for an offence to which this section applies it is necessary, if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or product involved in the alleged offence was the controlled drug which the prosecution alleges it to have been, and it is proved that the substance or product in question was that controlled drug, the accused

(a) shall not be acquitted of the offence charged by reason only of proving that he neither knew nor suspected nor had reason to suspect that the substance or product in question was the particular controlled drug alleged; but

(b) shall be acquitted thereof

(i) if he proves that he neither believed nor suspected nor had reason to suspect that the substance or product in question was a controlled drug; or

(ii) if he proves that he believed the substance or product in question to be a controlled drug, or a controlled drug of a description, such that, if it had in fact been that controlled drug or a controlled drug of that description, he would not at the material time have been committing any offence to which this section applies.

(4) Nothing in this section shall prejudice any defence which it is open to a person charged with an offence to which this section applies to raise apart from this section.

Part IX

Evidence

Certificate of corresponding law

40. A document purporting to be issued by or on behalf of the government of a country and purporting to state the terms of a corresponding law in force in that country shall be admitted in evidence, in proceedings for an offence under this Act before any court, on its production by the prosecution without further proof, and such document shall be conclusive evidence

(a) that it is issued by or on behalf of the government of that country;

(b) that the terms of such law are as stated in the document;

(c) that any facts stated in the document to constitute an offence under such law do constitute such offence.

Evidence of analyst by certificate Cap. 121

41. (1) Without prejudice to the provisions of section 20A of the *Evidence Act*, but subject to subsection (2), in any proceedings for an offence under this Act a certificate in the prescribed form purporting to be signed by an authorised analyst and certifying any substance specified in the certificate to be a controlled drug or to contain such proportion of a controlled drug as may be so certified shall, on its production by the prosecution, without further proof, be *prima facie* evidence of the matters so certified and of the qualification of the analyst.

(2) Subsection (1) shall not apply to a certificate tendered on behalf of the prosecution

(a) unless a copy thereof has been served on the accused not less than ten days before the trial; or

(b) if the accused not less than five days before the trial has served notice on the prosecution requiring the attendance at the trial of the person by whom the certificate was signed.

(3) In this section "authorised analyst" means a person authorised by the Minister by notice in the *Gazette* to analyse any substance for the purposes of this Act.

Presumptions of possession and knowledge of controlled drug

42. (1) Without prejudice to any other provision of this Act

(a) where it is proved that a person imported anything containing a controlled drug it shall be presumed, until the contrary is proved, that such person knew that such drug was contained in such thing;

(b) where it is proved that a person had in his possession or custody or under his control anything containing a controlled drug, it shall be presumed until the contrary is proved, that such person was in possession of such drug;

(c) where it is proved that a person supplied to any other person anything containing a controlled drug, it shall be presumed, until the contrary is proved, that such first-mentioned person knew that such drug was contained in such thing;

(d) where it is proved that a person handled, within the meaning of section 7, anything containing a controlled drug, it shall be presumed, until the contrary is proved, that such person knew that such drug was contained in such thing;

(e) where it is proved that a person had in his possession or custody or under his control

(i) any document of title relating to anything containing a controlled drug; or

(ii) any other document or written or printed matter including a dock warrant, warehouse warrant or order, baggage receipt or baggage claim, relating to anything containing a controlled drug,

it shall be presumed, until the contrary is proved, that such person was in possession of such drug.

(2) The presumptions provided by this section shall not be construed as requiring the prosecution to prove any fact which, by virtue of any other provision of this Act, the prosecution does not have to prove.

Presumptions relating to places used for drug misuse

43. (1) Whenever any pipe, equipment or apparatus fit and intended for use in connection with the misuse of a controlled drug is found in any premises or place it shall be presumed, until the contrary is proved, that such premises or place is used for the purpose of misusing a controlled drug therein.

(2) Any person who is in or is found escaping from any premises or place used for the purpose of misusing a controlled drug shall, until the contrary is proved, be presumed to have been misusing a controlled drug therein.

Part X

Miscellaneous and Supplementary Provisions

Application of Customs Act

Cap. 66

44. (1) Subject to any regulations under section 12, any controlled drugs of which the importation is prohibited or restricted by this Act shall be deemed for the purposes of the *Customs Act* to be goods of which the importation is prohibited or restricted, as the case may be, by section 89(1) of that Act.

(2) Subject to any regulations under section 12, any controlled drugs of which the exportation is prohibited or restricted by this Act shall be deemed for the purposes of the *Customs Act* to be goods of which the exportation is prohibited or restricted, as the case may be, by section 89(2) of that Act.

(3) If any articles prohibited or restricted to be exported by this Act are

(a) exported from Barbados in contravention of this Act; or

(b) brought to a quay, airport or other place to be shipped for the purpose of being exported in contravention of this Act or of being water-borne or air-borne to be so exported

the exporter or his agent is guilty of an offence and liable on summary conviction to a fine of $2,500 and the articles are liable to forfeiture.

Service of documents

45. (1) Any notice or other document required or authorised by any provision of this Act to be served on any person may be served

(a) by delivering it to the person on whom it is to be served;

(b) by sending it by prepaid post addressed to that person at his usual or last known place of abode; or

(c) in the case of a body corporate, by delivering it or sending it by prepaid post to the secretary or clerk of that body at its registered office or other place of business.

(2) Service effected by delivery pursuant to paragraph (a) or (c) of subsection (1) shall have effect as from the time of delivery.

(3) Service effected otherwise than by delivery shall be deemed to have effect three days after the steps taken pursuant to any of the provisions of subsection (1) have been taken, unless and to the extent that the contrary is proved.

Licences and authorities

46. A licence or other authority issued by the Minister for purposes of this Act or of regulations made under this Act may, to any degree, general or specific, be issued on such terms and subject to such conditions (including, in the case of a licence, the payment of a prescribed fee) as the Minister thinks proper, and may be modified or revoked by him at any time.

Forfeiture of articles etc. used in connection with offence

47. (1) Notwithstanding anything in any other Act contained, a court may (whether or not any person has been convicted of such offence) order to be forfeited to the Crown

(a) any money or thing (other than premises, a ship exceeding two hundred and fifty gross tons or an aircraft) which has been used in the commission of or in connection with an offence under this Act; and

(b) any money or other thing received or possessed by any person as the result or product of an offence under this Act.

(2) An order under subsection (1) for the forfeiture of a thing may include a term permitting a specified person to redeem such thing on such conditions, including conditions as to the payment of the value or a proportion of the value thereof to the Crown, as the court may think fit.

(3) No order shall be made under this section unless the court has given notice to any person appearing to the court to have an interest in or right over the money, or thing in question that an order may be made and such person is given an opportunity to show cause why the order should not be made.

General provisions as to regulations

48. (1) Regulations made by the Minister under any provisions of this Act

(a) may make different provision in relation to different controlled drugs, different classes of persons, different

provisions of this Act or other different cases or circumstances; and

(b) may make the opinion, consent or approval of a prescribed authority or of any person authorised in a prescribed manner material for purposes of any provision of the regulations; and

(c) may contain such supplementary, incidental and transitional provisions as appear expedient to the Minister.

(2) Regulations made under this Act shall be subject to affirmative resolution.

Research

49. The Minister may conduct or assist in conducting research into any matter relating to the misuse of dangerous or otherwise harmful drugs.

Meaning of corresponding law

50. In this Act the expression "corresponding law" means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside Barbados to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of any Convention or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the government of that country and the Government of Barbados are for the time being parties.

Repeal of Cap. 140A

51. As from the coming into operation of this section the *Narcotic Drugs Act* shall be repealed but Part II of the Schedule thereto and any subsidiary legislation thereunder, with the necessary adaptations and modifications to bring it into conformity with this Act shall continue to apply until regulations are made under this Act.

Transitional provisions Cap. 1

52. Without prejudice to the provisions of section 29 of the *Interpretation Act*, the following transitional provisions shall have effect

(a) as from the coming into operation of this Act any licence, permission or authorisation granted under the *Narcotic Drugs Act* (now repealed) or any regulations made thereunder shall have effect as if it were a licence, permission or authorisation granted for the purposes of this Act; and

(b) the Minister may at any time before the coming into operation of section 26 give a direction under subsection (2) of that section in respect of any practitioner or pharmacist whose general authority under regulation 25 of the *Narcotic Drugs Regulations* is for the time being withdrawn; but a direction given by virtue of this paragraph shall not take effect until section 26 comes into operation, and shall not take effect at all if the general authority of the person concerned is restored before that section comes into operation;

(c) any register kept in pursuance of the *Narcotic Drugs Act* (now repealed) or

any regulations made thereunder shall be deemed to be a register kept in pursuance of this Act;

(d) any order, rule or other instrument or document made or issued and any direction given or other thing done under or by virtue of any provision of the *Narcotic Drugs Act* (now repealed) S.I. 1974 No. 125 is deemed to have been made, issued or done under the corresponding provision of this Act.

53. This Act shall come into operation on such date as the Governor-General fixes by proclamation. Commencement

FIRST SCHEDULE

(Section 3)

PART I

LIST OF NARCOTIC DRUGS UNDER CONTROL

1. The following substances and products, namely:

ACETORPHINE (3-O-acetyltetrahydro-7x-(1-hydroxy-1-methylbutyl)-6, 14-endoetheno-oripavine)
ACETYL-ALPHA-METHYLFENTANYL (N-[1-(a-methylphenethyl)-4-piperidyl] acetanilide)
ACETYLDIHYDROCODEINE
ACETYLMETHADOL (3-acetoxy-6-dimethylamino-4,4-diphenylheptane)
ALFENTANIL (N-[1-[2-(4-ethyl-4,5-dihydro-5-oxo-1H-tetrazol-1-yl)ethyl]-4-(methoxymethyl)-4-piperidinyl]-N-phenylpropanamide monohydrochloride)
ALLYLPRODINE (3-allyl-1-methyl-4-phenyl-4-propionoxypiperidine)
ALPHACETYLMETHADOL (alpha-3-acetoxy-6-dimethylamino-4, 4-diphenylheptane)
ALPHAMEPRODINE (alpha-3-ethyl-1-methyl-4-phenyl -4-propionoxypiperidine)
ALPHAMETHADOL (alpha-6-dimethylamino-4, 4-diphenyl-3-heptanol)
ALPHA-METHYLFENTANYL (N-[1-(a-methylphenethyl)-4-piperidyl] propionanilide)
ALPHAPRODINE (alpha-1, 3-dimethyl-4-phenyl-4-propionoxypiperidine)
ANILERIDINE (1-para-aminophenethyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)
BENZETHIDINE (1-(2-benzyloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
BENZYLMORPHINE (3-benzylmorphine)
BETACETYLMETHADOL (beta-3-acetoxy-6-dimethylamino-4, 4-diphenylheptane)
BETAMEPRODINE (beta-3-ethyl-1-methyl-4-phenyl -4-propionoxypiperidine)
BETAMETHADOL (beta-6-dimethylamino-4,4-diphenyl-3-heptanol)
BETAPRODINE (beta-1,3-dimethyl-4-phenyl-4-propionoxypiperidine)
BEZITRAMIDE (1-(3-cyano-3,3-diphenylpropyl)-4-(2-oxo-3-propionyl-1-benzimidazolinyl)-piperidine)
CANNABIS (Indian Hemp) and Cannabis resin (Resin of Indian Hemp)
CLONITAZENE (2-para-chlorbenzyl-1-diethylaminoethyl -5-nitrobenzimidazole)
COCA LEAF
COCAINE (methyl ester of benzoylecgonine)
CODEINE (3-methylmorphine)
CODOXIME (dihydrocodeinone-6-carboxymethyloxime)
CONCENTRATE OF POPPY STRAW (the material arising when poppy straw has entered into a process for the concentration of its alkaloids, when such material is made available in trade)
DESOMORPHINE (dihydrodeoxymorphine)
DEXTROMORAMIDE ((+)-4-[2-methyl-4-oxo-3,3-diphenyl -4-(1-pyrrolidinyl)-butyl]-morpholine)

DEXTROPROPOXYPHENE (x-(+)-4-dimethylamino-1-2-diphenyl-3-methyl-2-butanol propionate)
DIAMPROMIDE (N-[(2-methylphenethylamino)-propyl]-propionanilide)
DIETHYLTHIAMBUTENE (3-diethylamino-1,1-di-(2-thienyl)-1-butene)
DIFENOXIN (1-(3-cyano-3,3-diphenylpropyl)-4-phenylisonipecotic acid)
DIHYDROCODEINE
DIHYDROMORPHINE
DIMENOXADOL (2-dimethylaminoethyl-1-ethoxy-1,1-diphenylacetate)
DIMEPHEPTANOL (6-dimethylamino-4,4-diphenyl-3-heptanol)
DIMETHYLTHIAMBUTENE (3-dimethylamino-1,1-di-(2-thienyl)-1-butene)
DIOXAPHETYL BUTYRATE (ethyl 4-morpholino-2,2-diphenylbutyrate)
DIPHENOXYLATE (1-(3-cyano-3,3-diphenylpropyl)-4phenylpiperidine-4-carboxylic acid ethyl ester)
DIPIPANONE (4,4-diphenyl-6-piperidine-3-heptanone)
DROTEBANOL (3,4-dimethoxy-17-methylmorphinan-6B,14-diol)
ECGONINE, its esters and derivatives which are convertible to ecgonine and cocaine
ETHYLMETHYLTHIAMBUTENE (3-ethylmethylamino-1,1-di-(2-thienyl)-1-butene)
ETHYLMORPHINE (3-ethylmorphine)
ETONITAZENE (1-diethylaminoethyl-2-para-ethoxybenzyl-5-nitrobenzimidazole)
ETORPHINE (tetrahydro-7x-(1-hydroxy-1-methylbutyl)-6, 14-endoetheno-oripavine)
ETOXERIDINE (1-[2-(2-hydroxyethoxy)-ethyl]-4-phenylpiperidine-4-carboxylic acid ethyl ester)
FENTANYL (1-phenethyl-4-N-propionylanilinopiperidine)
FURETHIDINE (1-(2-tetrahydrofurfuryloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
HEROIN (diacetylmorphine)
HYDROCODONE (dihydrocodeinone)
HYDROMORPHINOL (14-hydroxydihydromorphine)
HYDROMORPHONE (dihydromorphinone)
HYDROXYPETHIDINE (4-meta-hydroxyphenyl-1-methylpiperidine-4-carboxylic acid ethyl ester)
ISOMETHADONE (6-dimethylamino-5-methyl-4,4-diphenyl-3-hexanone)
KETOBEMIDONE (4-meta-hydroxyphenyl-1-methyl-4-propionylpiperidine)
LEVOMETHORPHAN ((-)-3-methoxy-N-methylmorphinan)
LEVOMORAMIDE ((-)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrrolidinyl)-butyl] morpholine)
LEVOPHENACYLMORPHAN ((-)-3-hydroxy-N-phenacylmorphinan)
LEVORPHANOL ((-)-3-hydroxy-N-methylmorphinan)
METAZOCINE (2-hydroxy-2,5,9-trimethyl-6,7-benzomorphan)
METHADONE (6-dimethylamino-4,4-diphenyl-3-heptanone)
METHADONE-INTERMEDIATE (4-cyano-2-dimethylamino-4,4-diphenylbutane)
METHYLDESORPHINE (6-methyl-delta-6-deoxymorphine)
METHYLDIHYDROMORPHINE (6-methyldihydromorphine)
3-methylfentanyl(N-(3-methyl-1-phenethyl-4-piperidyl) propionanilide)
METOPON (5-methyldihydromorphinone)
MORAMIDE-INTERMEDIATE (2-methyl-3-morpholino-1, 1-diphenylpropane carboxylic acid)
MORPHERIDINE (1-(2-morpholinoethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
MORPHINE
MORPHINE METHOBROMIDE and other pentavalent nitrogen morphine derivatives, including in particular the morphine-N-oxide derivatives, one of which is Codeine-N-Oxide
MORPHINE-N-OXIDE
MPPP (1-methyl-4-phenyl-4-piperidinol propionate(ester))
MYROPHINE (myristylbenzylmorphine)
NICOCODINE (6-nicotinylcodeine or 6-(pyridine-3-carboxylic acid)-codeine ester)
NICODICODINE (6-nicotinyldihyldrocodeine)
NICOMORPHINE (3,6-dinicotinylmorphine)
NORACYMETHADOL ((±)-alpha-3-acetoxy-6-methylamino-4,4-diphenylheptane)
NORLEVORPHANOL ((-)-3-hydroxymorphinan)
NORMETHADONE (6-dimethylamino-4,4-diphenyl-3-hexanone)
NORCODEINE (N-demthylcodeine)
NORMORPHINE (demethylmorphine) or (N-demethylated morphine)
NORPIPANONE (4,4-diphenyl-6-piperidino-3-hexanone)
OPIUM (whether raw, prepared or medicinal) the opium poppy
OXYCODONE (14-hydroxydihydrocodeinone)
OXYMORPHONE (14-hydroxydihydromorphinone)
PEPAP (1-phenethyl-4-phenyl-4-piperidinol acetate(ester)
PETHIDINE (1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)
PETHIDINE-INTERMEDIATE-A (4-cyano-1-methyl-4-phenylpiperidine)
PETHIDINE-INTERMEDIATE-B (4-phenylpiperidine-4-carboxylic acid ethyl ester)
PETHIDINE-INTERMEDIATE-C (1-methyl-4-phenylpiperidine-4-carboxylic acid)
PHENADOXONE (6-morpholino-4,4-diphenyl-3-heptanone)
PHENAMPROMIDE (N-(1-methhyl-2-piperidinoethyl) propionanilide)
PHENAZOCINE (2-hydroxy-5,9-dimethyl-2-phenethyl-6,7-benzomorphan)
PHENOMORPHAN (3-hydroxy-N-phenethylmorphinan)
PHENOPERIDINE (1-(3-hydroxy-3-phenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
PHOLCODINE (morpholinylethylmorphine or beta-4-morpholinylethyl-morphine)
PIMINODINE (4-phenyl-1-(3-phenylaminopropyl)-piperidine-4-carboxylic acid ethyl ester)
PIRITRAMIDE POPPY-STRAW AND CONCENTRATE OF POPPY-STRAW (1-(3-cyano-3, 3-diphenylpropyl) - 4 - (1-piperidino) - piperidine-4-carboxylic acid amide)
PROHEPTAZINE (1,3-dimethyl-4-phenyl-4-propionoxyazacycloheptane)
PROPERIDINE (1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester)
PROPIRAM
RACEMETHORPHAN ((±)-3-methoxyn-N-methylmorphinan)

RACEMORAMIDE ((±)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrroldinyl)-butyl]-morpholine)
RACEMORPHAN ((±) -3-hydroxy-N-methylmorphinan)
SUFENTAMIL (N-[4-(methoxymethyl)-1-[2-(2-thienyl)-ethyl]-4-piperidyl]-propionanilide)
THEBACON (acetyldihydrocodeinone)
THEBAINE
TILIDINE ((±)-ethyl-trans-2-(dimethylamino)-1-phenyl-3-cyclohexene-1-carboxylate)
TRIMEPERIDINE (1,2,5-trimethyl-4-phenyl-4-propionoxypiperidine); and

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 above not being dextromethorphan or dextrorphan.

3. Any ester or ether of a substance for the time being specified in paragraph 1 or 2 above.

4. Any salt of a substance for the time being specified in any of paragraphs 1 to 3 above.

5. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 4 above.

6. Any preparation designed for administration by injection which includes a substance or product for the time being specified in any of paragraphs 1 to 5 above.

PART II

(Section 3)

LIST OF PSYCHOTROPIC SUBSTANCES UNDER CONTROL

1. The following substances and products, namely:

International Non-Proprietary Names (INN)	Other Non-Proprietary or Trivial Names	Chemical Name
BROLAMFETAMINE	DOB	(±)-4-bromo-2,5-dimethoxy-α-methylphenethylamine
CATHINONE		(-)-(S)-2-aminopropiophenone
	DET	3-[2-(diethylamino)ethyl]indole
	DMA	(±)-2,5-dimethoxy-α-methylphenethylamine
	DMHP	3-(1,2-dimethylheptyl)-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran-1-ol
	DMT	3-[2-(dimethylamino)ethyl]indole
	DOET	(±)-4-ethyl-2,5-dimethoxy-α-phenethylamine
(+)-LYSERGIDE	LSD, LSD-25	9,10-didehydro-N,N-diethyl-6-methylergoline-8β-carboxamide
	mescaline	3,4,5-trimethoxyphenethylamine
	MDMA	(±)-N,α-dimethyl-3,4-(methylenedioxy)phenethylamine
	MMDA	2-methoxy-α-methyl-4,5-(methylenedioxy)phenethylamine
	parahexyl	3-hexyl-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran-1-ol

International Non-Proprietary Names (INN)	Other Non-Proprietary or Trivial Names	Chemical Name
ETICYCLIDINE	PCE	N-Ethyl-1-phenylcyclohexylamine
ROLICYCLIDINE	PHP, PCPY	1-(1-Phenylcyclohexyl) pyrrolidine
	PMA	p-methoxy-α-methylphenethylamine
	psilocine, psilotsin	3-[2-(dimethylamino) ethyl]indol-4-ol
PSILOCYBINE		3-[2-(dimethylamino) ethyl]indol-4-yl dihydrogen phosphate
	STP, DOM	2,5-dimethoxy-α,4-dimethylphenethylamine
TENOCYCLIDINE	TCP	1-[1-(2-thienyl) cyclohexyl]piperidine
	THC, Tetrahydrocannabinol,	the following isomers and their stereochemical variants: 7,8,9,10-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol (9R,10aR)-8,9,10,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol (6aR,9R,10aR)-6a,9,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol (6aR,10aR)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol (6aR,10aR)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol 6a,7,8,9-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol (6aR,10aR)-6a,7,8,9,10,10a-hexahydro-6,6-dimethyl-9-methylene-3-pentyl-6H-dibenzo [b,d]pyran-1-ol

International Non-Proprietary Names (INN)	Other Non-Proprietary or Trivial Names	Chemical Name
	TMA	(±)-3,4,5-trimethoxy-α-methylphenethylamine
AMFETAMINE	amphetamine	(±)-α-methylphenethylamine
DEXAMFETAMINE	dexamphetamine	(+)-α-methylphenethylamine
FENETYLLINE		7-[2-[(α-methylphenethyl) amino]ethyl]theophylline
LEVAMFETAMINE	levamphetamine	(-)-(R)-α-methylphenethylamine
	levomethamphetamine	(-)-N,α-dimethylphenethylamine
MECLOQUALONE		3-(o-chlorophenyl)-2-methyl-4(3H)-quinazolinone
METAMFETAMINE	methamphetamine	(+)-(S)-N,α-dimethylphenethylamine
METAMFETAMINE RACEMATE	methamphetamine racemate	(±)-N,α-dimethylphenethylamine
METHAQUALONE		2-methyl-3-o-tolyl-4(3H)-quinazolinone
METHYLPHENIDATE		Methyl α-phenyl-2-piperidineacetate
PHENCYCLIDINE	PCP	1-(1-phenylcyclohexyl) piperidine
PHENMETRAZINE		3-methyl-2-phenylmorpholine
AMOBARBITAL		5-ethyl-5-isopentyl-barbituric acid
BUPRENORPHINE		21-cyclopropyl-7-α-[(S)-1-hydroxy-1,2,2-trimethylpropyl]-6,14-endo-ethano-6,7,8,14-tetrahydrooripavine
BUTALBITAL		5-allyl-5-isobutyl-barbituric acid
CATINE	(+)-norpseudoephedrine	(+)-(R)-α-[(R)-1-aminoethyl]benzyl alcohol

International Non-Proprietary Names (INN)	Other Non-Proprietary or Trivial Names	Chemical Name
CYCLOBARBITAL	ephedrine	5-(1-cyclohexen-1-yl)-5-ethylbarbituric acid
GLUTETHIMIDE		2-ethyl-2-phenylglutarimide
PENTAZOCINE		(2R,6R,11R)-1,2,3,4,5,6-hexahydro-6,11-dimethyl-3-(3-methyl-2-butenyl)-2,6-methano-3-benzazocin-8-ol
PENTOBARBITAL		5-ethyl-5-(1-methylbutyl) barbituric acid
SECOBARBITAL		5-allyl-5-(1-methylbutyl) barbituric acid
ALLOBARBITAL		5,5-diallylbarbituric acid
ALPRAZOLAM		8-chloro-1-methyl-6-phenyl-4H-s-triazolo[4,3-α][1,4] benzodiazepine
AMFEPRAMONE		2-(diethylamino)propiophenone
BARBITAL		5,5-diethylbarbituric acid
BENZFETAMINE	benzphetamine	N-benzyl-N,α-dimethylphenethylamine
BROMAZEPAM		7-bromo-1,3-dihydro-5-(2-pyridyl)-2H-1,4-benzodiazepin-2-one
BUTOBARBITAL		5-butyl-5-ethylbarbituric acid
CAMAZEPAM		7-chloro-1,3-dihydro-3-hydroxy-1-methyl-5-phenyl-2H-1,4-benzodiazepin-2-one dimethylcarbamate (ester)
CHLORDIAZEPOXIDE		7-chloro-2-(methylamino)-5-phenyl-3H-1,4-benzodiazepine-4-oxide

International Non-Proprietary Names (INN)	Other Non-Proprietary or Trivial Names	Chemical Name
CLOBAZAM		7-chloro-1-methyl-5-phenyl-1H-1,5-benzodiazepine-2,4(3H,5H)-dione
CLONAZEPAM		5-(o-chlorophenyl)-1,3-dihydro-7-nitro-2H-1,4-benzodiazepin-2-one
CLORAZEPATE		7-chloro-2,3-dihydro-2-oxo-5-phenyl-1H-1,4-benzodiazepine-3-carboxylic acid
CLOTIAZEPAM		5-(o-chlorophenyl)-7-ethyl-1,3-dihydro-1-methyl-2H-thieno[2,3-e]-1,4-diazepin-2-one
CLOXAZOLAM		10-chloro-11b-(o-chlorophenyl)-2,3,7,11b-tetrahydrooxazolo[3,2-d][1,4]benzodiazepin-6(5H)-one
DELORAZEPAM		7-chloro-5-(o-chlorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one
DIAZEPAM		7-chloro-1,3-dihydro-1-methyl-5-phenyl-1H-1,4-benzodiazepin-2-one
ESTAZOLAM		8-chloro-6-phenyl-4H-s-triazolo[4,3-α][1,4] benzodiazepine
ETHCHLORVYNOL		1-chloro-3-ethyl-1-penten-4-yn-3-ol
ETHINAMATE		1-ethynylcyclohexanol carbamate
ETHYL LOFLAZEPATE		ethyl 7-chloro-5-(o-fluorophenyl)-2,3-dihydro-2-oxo-1H-1,4-benzodiazepine-3-carboxylate

International Non-Proprietary Names (INN)	Other Non-Proprietary or Trivial Names	Chemical Name
ETILAMFETAMINE	N-ethylampheta-mine	N-ethyl-α-methylphenethyl-amine
FENCAMFAMIN		N-ethyl-3-phenyl-2-norbornanamine
FENPROPOREX		(±)-3-[(α-methylphenethyl) amino]propionitrile
FLUDIAZEPAM		7-chloro-5-(o-fluorophenyl) -1,3-dihydro-1-methyl-2H-1,4-benzodiazepin-2-one
FLUNITRAZEPAM		5-(o-fluorophenyl)-1,3-dihydro-1-methyl-7-nitro-2H-1,4-benzodiazepin-2-one
FLURAZEPAM		7-chloro-1-[2-(diethyl-amino)ethyl]-5-(o-fluorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one
HALAZEPAM		7-chloro-1,3-dihydro-5-phenyl-1-(2,2,2-trifluoroethyl)-2H-1,4-benzodiazepin-2-one
HALOXAZOLAM		10-bromo-11b-(o-fluoro-phenyl)-2,3,7,11b-tetrahy-drooxazolo[3,2-d][1,4]-benzodiazepin-6(5H)-one
KETAZOLAM		11-chloro-8,12b-dihydro-2,8-dimethyl-12b-phenyl-4H-[1,3]oxazino[3,2-d][1,4] benzodiazepine-4,7(6H)-dione
LEFETAMINE	SPA	(-)-N,N-dimethyl-1,2-diphenylethylamine
LOPRAZOLAM		6-(o-chlorophenyl)-2,4-dihydro-2-[(4-methyl-1-piperazinyl)methylene]-8-nitro-1H-imidazo[1,2-a] [1,4]benzodiazepin-1-one
LORAZEPAM		7-chloro-5-(o-chlorophenyl) -1,3-dihydro-3-hydroxy-2H-1,4-benzodiazepin-2-one
LORMETAZEPAM		7-chloro-5-(o-chlorophenyl) -1,3-dihydro-3-hydroxy-1-methyl-2H-1,4-benzodiazepin-2-one
MAZINDOL		5-(p-chlorophenyl)-2,5-dihydro-3H-imidazo[2,1-α] isoindol-5-ol
MEDAZEPAM		7-chloro-2,3-dihydro-1-methyl-5-phenyl-1H-1,4-benzodiazepine
MEFENOREX		N-(3-chloropropyl)-α-methylphenethylamine
MEPROBAMATE		2-methyl-2-propyl-1,3-propanediol dicarbamate
METHYLPHENOBARBITAL		5-ethyl-1-methyl-5-phenyl-barbituric acid
METHYPRYLON		3,3-diethyl-5-methyl-2,4-piperidine-dione
NIMETAZEPAM		1,3-dihydro-1-methyl-7-nitro-5-phenyl-2H-1,4-benzodiazepin-2-one
NITRAZEPAM		1,3-dihydro-7-nitro-5-phenyl-2H-1,4-benzodiazepin-2-one
NORDAZEPAM		7-chloro-1,3-dihydro-5-phenyl-2H-1,4-benzodiazepin-2-one
OXAZEPAM		7-chloro-1,3-dihydro-3-hydroxy-5-phenyl-2H-1,4-benzodiazepin-2-one

International Non-Proprietary Names (INN)	Other Non-Proprietary or Trivial Names	Chemical Name
OXAZOLAM		10-chloro-2,3,7,11b-tetrahydro-2-methyl-11b-phenyloxazolo[3,2-d][1,4] benzodiazepin-6(5H)-one
PEMOLINE		2-amino-5-phenyl-2-oxazolin-4-one(=2-imino-5-phenyl-4-oxazolidinone)
PHENDIMETRAZINE		(+)-(2S,3S)-3,4-dimethyl-2-phenylmorpholine
PHENOBARBITAL		5-ethyl-5-phenyl-barbituric acid
PHENTERMINE		α,α-dimethyl-phenethylamine
PINAZEPAM		7-chloro-1,3-dihydro-5-phenyl-1-(2-propynyl)-2H-1,4-benzodiazepin-2-one
PIPRADROL		α, α-diphenyl-2-piperidinemethanol
PRAZEPAM		7-chloro-1-(cyclopropylmethyl)-1,3-dihydro-5-phenyl-2H-1,4-benzodiazepin-2-one
PROPYLHEXEDRINE		N, α-dimethylcyclohexaneethylamine
PYROVALERONE		4-methyl-2-(1-pyrrolidinyl) valerophenone
SECBUTABARBITAL		5-sec-butyl-5-ethylbarbituric acid
TEMAZEPAM		7-chloro-1,3-dihydro-3-hydroxy-1-methyl-5-phenyl-2H-1,4-benzodiazepin-2-one
TETRAZEPAM		7-chloro-5-(1-cyclohexen-1-yl)-1,3-dihydro-1-methyl-2H-1,4-benzodiazepin-2-one
TRIAZOLAM		8-chloro-6-(o-chlorophenyl)-1-methyl-4H-s-triazolo[4,3-α] [1,4] benezodiazepine
VINYLBITAL		5-(1-methylbutyl)-5-vinylbarbituric acid

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part.

3. Any salt of a substance for the time being specified in paragraphs 1 or 2 of this Part.

4. Any preparation or other product containing a substance for the time being specified in any of paragraphs 1 to 3 of this Part.

PART III

(Section 3)

LIST OF SUBSTANCES UNDER CONTROL

1. The following substances and products, namely:

Table I	Table II
Ephedrine	Acetic anhydride
Ergometrine	Acetone
Ergotamine	Anthranilic acid
Lysergic acid	Ethyl ether
1-phenyl-2-propanone	Phenylacetic acid
Pseudoephedrine	Piperidine

2. The salts of the substances listed in either Table specified in paragraph 1 of this Schedule whenever the existence of such salts is possible.

PART IV

(Section 3)

MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purposes of this Schedule the following expressions have the meanings hereby assigned to them respectively, that is to say,

"cannabinol derivatives" means the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannobinol or of its tetrahydro derivatives;

"concentrate of poppy-straw" means the material produced when poppy-straw has entered into a process for the concentration of its alkaloids;

"medicinal opium" means raw opium which has undergone the process necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmocoposia, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substances;

"opium poppy" means the plant of the species Papaver somniferum L;

"poppy-straw" means all parts, except the seeds, of the opium poppy, after mowing;

"raw opium" includes powdered or granulated opium but does not include medicinal opium.

SECOND SCHEDULE

(Sections 2, 5(4) and 18)

Trafficable Quantities of Specified Controlled Drugs

Controlled Drug		Trafficable Quantity
Cannabis or Cannabis resin	-	fifteen grammes
Cocaine	-	one gramme
Heroin (diacetylmorphine)	-	two grammes
Opium	-	fifty-five grammes
Morphine	-	three grammes
THC (tetrahydrocannabinol)	-	one gramme

THIRD SCHEDULE

(Section 29)

TRIBUNALS

1. A tribunal shall consist of three persons of whom

(a) one shall be an attorney-at-law of at least 10 years standing appointed by the Minister, after consultation with the Chief Justice, to be Chairman of the tribunal;

(b) wherever practicable, two shall be persons engaged in the same profession as the respondent appointed by the Minister and where the respondent is a member of a professional association in Barbados the Minister shall before making any appointment under this paragraph consult with that association.

2. At any meeting a tribunal shall not be properly constituted unless all members are present.

3. Proceedings before a tribunal shall be held in private unless the respondent requests otherwise and the tribunal accedes to that request.

4. The Judicial Advisory Council may make rules as to the procedure to be followed, and the rules of evidence to be observed, in proceedings before a tribunal, and in particular

(a) for securing that notice that the proceedings are to be brought shall be given to the respondent at such time and in such manner as may be specified in the rules;

(b) for determining who, in addition to the respondent shall be a party to the proceedings;

(c) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the tribunal;

(d) for enabling any party to the proceedings to be represented by an attorney-at-law.

5. For the purpose of any proceedings before a tribunal the tribunal may administer oaths and any party to the proceedings may sue out writs of subpoena ad testificandum and duces tecum, but no person shall be compelled under any such writ to give any evidence or produce any document which he could not be compelled to give or produce on the trial of an action.

6. Subject to the foregoing provisions of this Schedule a tribunal may regulate its own procedure.

7. The validity of the proceedings of a tribunal shall not be affected by any defect in the appointment of a member of the tribunal or by reason of the fact that a person not entitled to do so took part in the proceedings.

8. The Minister shall by order published in the Gazette determine the fees which shall be paid to members of a tribunal appointed in accordance with this Act.

9. The Minister shall make available to a tribunal such accommodation, the services of such officers and such other facilities as he considers appropriate for the purpose of enabling the tribunal to perform its function.

FOURTH SCHEDULE

(Section 37)

Section Creating Offence	General Nature of Offence	Mode of Prosecution	Punishment
Section 4(3)	Importation or exportation of a controlled drug contrary to section 4(1)	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years, or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both
Section 5(2)	Production or being concerned in production of a controlled drug contrary to section 5(1)	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years, or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both
Section 5(3)	Supplying or offering to supply a controlled drug to another or being concerned in the doing of either activity by another	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years, or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both
Section 6(2)	Having possession of a controlled drug	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years, or
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both

Section Creating Offence	General Nature of Offence	Mode of Prosecution	Punishment
Section 6(3)	Having possession of a controlled drug with intent to supply it to another	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years, or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both
Section 7(1)	Handling a controlled drug	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years, or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both
Section 8(2)	Misusing a controlled drug	(a) Summary ...	A fine of $100,000 or imprisonment for 2 years, or both
		(b) On indictment	A fine of $250,000 or imprisonment for 5 years, or both
Section 9(2)	Having possession of any pipe, equipment or apparatus intended for use in connection with misuse of a controlled drug	(a) Summary ...	A fine of $100,000 or imprisonment for 2 years, or both
		(b) On indictment	A fine of $250,000 or imprisonment for 5 years, or both
Section 10(2)	Doing an act preparatory to the commission of an offence under section 4(3) or section 5(3)	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years, or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both
Section 11(2)	Cultivation of cannabis plant, coca plant or opium poppy	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years, or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both
Section 13(1)	Being the occupier or concerned in the management of premises and permitting or suffering certain illegal activities to take place there	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years, or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both
Section 14(6)	Bringing controlled drugs into Barbados intransit contrary to section 14(1)	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both

Section Creating Offence	General Nature of Offence	Mode of Prosecution	Punishment
Section 15(5)	Removing controlled drugs from conveyance by which it is brought into Barbados in transit etc. without licence) contrary to section 15(1) (a) or moving controlled drugs etc., contrary to section 15(1) (b)	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years or both
Section 16	Tampering with controlled drugs in transit	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years or both
		(b) On indictment	A fine of $500,000 or imprisonment for 5 years or both
Section 17(6)	Diversion of controlled drugs etc. without certificate contrary to section 17(1)	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years or both
		(b) On indictment	A fine of $500,000 or imprisonment for 5 years or both
Section 18(4)	Trafficking in a controlled drug; offering to traffic in a controlled drug or doing or offering to do an act preparatory to or for the purpose of trafficking in a controlled drug contrary to section 18 (2)	(a) Summary ...	A fine of $250,000 or where there is evidence of the street value of the controlled drug three times the street value of the controlled drug, whichever is greater; and to imprisonment for 7 years
		(b) On indictment	Imprisonment for life
Section 19(1)	Assisting another to retain the benefit of drug trafficking	On indictment	A fine of $200,000 or imprisonment for 20 years, or both, if the offender is a natural person or a fine of $600,000 if the offender is a body corporate
Section 20(3)	Supplying, offering to supply or doing or offering to do an act preparatory to the supply of a substance represented or held out to be a controlled drug but which is not a controlled drug	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years, or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both
Section 21(2)	Having possession of a controlled drug in or within a radius of one hundred yards of school premises	(a) Summary ...	A fine of $250,000 and imprisonment for 7 years
		(b) On indictment	Imprisonment for life
Section 21(3)	Having possession of a controlled drug in or within a radius of one hundred yards of school premises with intent to supply it to another	(a) Summary ...	A fine of $250,000 and imprisonment for 7 years
		(b) On indictment	Imprisonment for life

Section Creating Offence	General Nature of Offence	Mode of Prosecution	Punishment
Section 22(2)	Employing, hiring etc of children or young persons to violate any provision of this Act or to assist in avoiding detection or apprehension for offences under Act or receiving a controlled drug from a child or young person in contravention of the Act	(a) Summary ...	A fine of $250,000 and imprisonment for 7 years
		(b) On indictment	Imprisonment for life
Section 23	Supplying a controlled drug to a child or young person employed, or hired to violate any provision of this Act	(a) Summary ...	A fine of $250,000 and imprisonment for 7 years
		(b) On indictment	Imprisonment for life
Section 25(2)	Contravention of directions relating to safe custody of controlled drugs	(a) Summary ...	A fine of $100,000 or imprisonment for 2 years, or both
		(b) On indictment	A fine of $250,000 or imprisonment for 5 years, or both
Section 26(6)	Contravention of directions prohibiting practitioner etc from prescribing, supplying etc specified controlled drugs	(a) Summary ...	A fine of $100,000 or imprisonment for 2 years, or both
		(b) On indictment	A fine of $250,000 or imprisonment for 5 years, or both
Section 27(3)	Contravention of directions prohibiting a practitioner etc from prescribing, supplying etc specified controlled drugs	(a) Summary ...	A fine of $100,000 or imprisonment for 2 years, or both
		(b) On indictment	A fine of $250,000 or imprisonment for 5 years, or both
Section 30(3)	Failure to comply with notice requiring information relating to prescribing, supply etc of controlled drugs	Summary	A fine of $1,000
Section 30(4)	Giving false information in purported compliance with notice requring information relating to prescribing, supply etc of controlled drugs	(a) Summary ...	A fine of $3,000 or imprisonment for 6 months, or both
		(b) On indictment	A fine of $10,000 or imprisonment for 2 years, or both
Section 31(1)	Contravention of regulations (other than regulations relating to addicts)	(a) Summary ...	A fine of $3,000 or imprisonment for 6 months, or both
		(b) On indictment	A fine of $10,000 or imprisonment for 2 years, or both
Section 31(2)	Contravention of terms of licence or other authority (other than licence issued under regulations relating to addicts)	(a) Summary ...	A fine of $3,000 or imprisonment for 6 months, or both
		(b) On indictment	A fine of $10,000 or imprisonment for 2 years, or both

Section Creating Offence	General Nature of Offence	Mode of Prosecution	Punishment
Section 31(3)	Giving false information in purported compliance with obligation to give information imposed under or by virtue of regulations	(a) Summary ...	A fine of $3,000 or imprisonment for 6 months, or both
		(b) On indictment	A fine of $10,000 or imprisonment for 2 years, or both
Section 31(4)	Giving false information or producing document etc containig false statement etc for purposes of obtaining issue or renewal of a licence or other authority	(a) Summary ...	A fine of $3,000 or imprisonment for 6 months, or both
		(b) On indictment	A fine of $10,000 or imprisonment for 2 years, or both
Section 32	Assisting in or inducing commission outside Barbados of an offence punishable under a corresponding law	(a) Summary ...	A fine of $250,000 or imprisonment for 5 years, or both
		(b) On indictment	A fine of $500,000 or imprisonment for 20 years, or both
Section 35(3)	Obstructing exercise of powers of search etc or	(a) Summary ...	A fine of $3,000 or imprisonment for 6 months, or both
	Concealing books etc	(b) On indictment	A fine of $10,000 or imprisonment for 2 years, or both

FIFTH SCHEDULE

(Sections 2, 14, 15, 17)

1. The International Opium Convention [ie The Hague Convention] signed at the Hague on 23 January, 1912.

2. The International Opium Convention [ie The Geneva Convention (No.1)] signed at Geneva on 19 February, 1925.

3. The International Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs [ie The Geneva Convention (No.2)] signed at Geneva on 13 July, 1931.

4. The Protocol on Narcotic Drugs signed at Lake Success, New York, on 11 December, 1946.

5. The Single Convention on Narcotic Drugs signed at New York on 30 March, 1961.

6. The Convention on Psychotropic Substances signed at Vienna on 21st February, 1971.

7. The Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances signed at Vienna on 16 December 1988.